small bells are hung above the highest platform. In order to achieve a musical balance, the tones of the large bells are slightly subdued by louvres, and a sounding board placed above the other bells amplifies their sound to a certain extent.

Listen once on a quiet summer afternoon in the wooded surroundings to the skillfully played carillon, and you will agree that the music arouses in you remarkable feelings, varying from subtle emotion while the small bells are being played to an almost overpowering feeling during the majestic sounds of the complete carillon when the largest bells are being played.

It is not surprising that a carillon can create such a deep emotion when we realize that of old even the sound of a single bell inspired poets and composers.

The carillon of real bells played by an inspired carillonneur brings us into a mood of heavenly peace and wonderful rest. As these bells ring out, putting music from the Netherlands into our American air, one more voice from beyond the sea will speak to us, and with us. It will have a noble message, for it will remind us of the great unity of the free peoples of this earth.

May the clear tones of the bells of Holland speak to us of the friendship that is possible between separate peoples. May they help us to understand that the forces which tie people together in freedom and harmony will always be greater than the forces which tend to drive them apart. May we come to see that a broader unity awaits the nations of this earth; and may this music, bespeaking the deep and lasting friendship between two great countries, take its place in our lives as a symbol of the peace and freedom which will someday prevail all across the world.

The Netherlands carillon and the surrounding grounds are administered by the National Capital region, National Park Service.

Mr. HUMPHREY. Mr. President, I have a feeling that with a little more prodding on the part of Congress, the banks of the Potomac may become melodious and that the beautiful music that can inspire the Nation's Capital will be forthcoming.

ADJOURNMENT UNTIL NOON ON MONDAY, FEBRUARY 10, 1964

Mr. HUMPHREY. Mr. President, if there is no further business to be transacted, I move that the Senate adjourn until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 6 o'clock and 55 minutes p.m.) the Senate adjourned until Monday, February 10, 1964, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate February 7, 1964:

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

HOUSE OF REPRESENTATIVES

FRIDAY, FEBRUARY 7, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Romans 10: 12: *The same Lord, who is over all is rich unto all who call upon Him.*

Our Heavenly Father, inspire us to enter upon the tasks and responsibilities of this new day with noble desires and lofty purpose surging though our minds and hearts.

May we make the most of every opportunity and invest the best we have of wisdom and understanding, of intelligence and experience, of effort and enthusiasm in solving life's many problems.

Help us to appreciate more fully that the greatness and glory of life consists in doing what we can to make life less difficult for the members of the human family who are finding its struggle so difficult and burdensome.

Grant that we may go forth bravely following in the footsteps of all who have spanned the ages with the glory of service and sacrifice.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

LOUISIANA STATE SOCIETY OF WASHINGTON

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, this year, as in 16 other years since 1942, the Louisiana State Society of Washington is proud to salute the Nation's Capital on the occasion of Mardi Gras.

This year, I am honored to serve as chairman of the 1964 Mardi Gras ball, which will be held at the Sheraton-Park Hotel tomorrow night, Saturday, February 8.

Louisiana pays tribute to a new chapter in its illustrious history with this year's Mardi Gras ball. To the traditional trappings of Mardi Gras, with its color and pageantry, we have added the marvels of the space age.

The soil where Jean Lafitte once trod is now the home of a vital link in the space crescent, stretching from Cape Kennedy to Houston, Tex.

Our great industries are now joined by new industrial partners, all adding vital components to our Nation's space program.

Only recently, a Saturn rocket lifted the largest payload ever sent into space from our Atlantic testing ground; vital parts of its booster were made in Louisiana.

Mardi Gras also honors a part of Louisana which has no equal anywhere: beauty. We are proud of our feminine beauty and in the royal court of this year's Mardi Gras ball is a good sampling of our State's feminine blessings.

The royal assemblage of 28 queens, representing our major fairs and festivals, and 13 maids from all sections of the State, is reigned over by Miss Elizabeth M. Bolton, a 21-year-old Alexandria, La., girl who is queen of the Mardi Gras ball.

Her royal consort is a distinguished citizen of our State, Mr. Harvey Peltier, Sr., of Thibodaux, La. Mr. Peltier, as king of the Mardi Gras, joins an honor roll of some of Louisiana's finest men who have served with distinction in the past.

At another part of the RECORD, I will list the visiting queens and maids.

MISSISSIPPI VALLEY ASSOCIATION CALLS FOR WORK ACCELERATION

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was was objection.

Mr. EDMONDSON. Mr. Speaker, the Mississippi Valley Association has just completed its annual meeting at New Orleans, with thousands in attendance from across the Nation.

This great association, which has led in the drive to develop America's water resources and inland waterways, has adopted a resolution which will command the attention of all Members of the House.

I am informed that this resolution was adopted unanimously, as an expression of the views of the association.

I am confident that it will not only win the attention of all Members of the Congress, but the President as well.

The text of the resolution follows:

ACCELERATED PUBLIC WORKS PROGRAM

We urge that a significant portion of any Federal funds appropriated for the acceleration of public works in the administration's war on poverty program be expended on authorized, economically justified, permanent, capital investment programs in water resources and river development in the United States of America.

ARMENIAN REVOLUTIONARY FEDERATION CREDO

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was was objection.

Mr. O'HARA of Illinois. Mr. Speaker, on many occasions in this Chamber and elsewhere my voice has been raised in the righteous cause of the captive nations. Too long have we been dragging our feet in the matter of the creation of a joint congressional committee to give direction and drive to the efforts of the world of freedom to rescue the captive nations from their unhappy plight.

Armenia is numbered among the captive nations. I am indebted to Arthur Kaprelian, a constituent of Armenian blood residing at 11915 South Wallace Street, Chicago, for a copy of the credo recently adopted by the Armenian Revolutionary Federation. It is an inspiring document worthy of place in the world's literature of freedom. That it may be read by my colleagues, I am extending

my remarks to include the complete text of the credo, as follows:

THE ARMENIAN REVOLUTIONARY FEDERATION CREDO

The supreme aim of the Armenian Revolutionary Federation is the realization of a free, united, and independent democratic national homeland established on the territories of the historic fatherland of the Armenian nation.

We believe that the realization of this aim can only be possible in a free democratic world context. A world in which the danger of war is permanently eliminated, and where the existing and potential international disputes can be resolved by peaceful means through the agency of a powerful international organization which shall be endowed with the necessary means of imposing its supreme will on great or small nation alike.

We believe that it is the indisputable and inviolable right of all nations, great or small alike, to possess their own independent government and to live and prosper under the canopy of its protection.

We believe that each nation, even the smallest and the weakest, can best develop its creative talents and its unique national individuality in its own, free and independent state.

We believe that each man, regardless of sex, race, or denomination, has a birthright to live out a free and happy life.

We believe that when a nation's fatherland is under the yoke of a more powerful alien nation, and the ruling nation is reluctant to end its tyranny by peaceful legitimate means, the nation which is ruled has the inviolable right to fight against that rule, and to resort to revolution and armed conflict, if necessary, for the liberation of its own fatherland.

We believe that each nation has an undeniable right to govern itself as it wishes and to express its collective will only through the medium of the free, universal secret ballot.

We believe that a nation, even within the limits of its independent national state, can best prosper and live the happy life when all its members, regardless of sex, race, or creed, enjoy the freedoms of press, of religion, and public assembly, the freedom to organize, to work, to travel, to move, and to communicate with others—conditions of which the Armenia of today is deprived.

We believe that when a nation is independent, and enjoys the benefits of a democratic government which is elected by the free, universal and secret vote of the people, any changes in the constitutional order are made only through constitutional channels; namely, by peaceful and legitimate means. Consequently, it is a crime which is tantamount to treason to effectuate any changes in the free constitutional order by armed force or by revolution.

We believe that a nation not only has the right, but it has the duty to dispense social justice to all the classes of society without discrimination, and to create such socio-economic conditions in which the humblest classes of the nation shall have the opportunity to enjoy a life which is in keeping with human dignity, fully adequate to meet the necessities of life.

We believe that the Armenian nation, as every nation, can best preserve and develop its unique physical and spiritual existence in a free and independent national homeland.

We believe that any nation, as well as the Armenian nation, in this atomic age when science has made gigantic strides in the fields of travel and communication, cannot develop and prosper in an isolated life. Science has wiped out the limitations of space and has brought the nations closer together, that all nations, great or small, aside from their aspirations to be free and independent, necessarily have need of cooperation, because, by virtue of their economies, their means of intercommunication and their cultural activities, more than at any other time, they are interdependent, and can meet their needs only through mutual understanding and close cooperation.

We believe that, as long as Armenia continues to remain under the Soviet rule, and as long as Armenia's historic territories are held by an alien power, it is the sacred duty of all Armenians to pursue the cause of the fatherland's liberation with all the possible means at their disposal.

THE WORLD CONGRESS OF THE ARMENIAN REVOLUTIONARY FEDERATION.

CASTRO AND GUANTANAMO

Mr. WYMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. WYMAN. Mr. Speaker, I take this time to call attention to an article appearing in the New York Times today which says that the Castro decision to shut off the water at our naval base at Guantanamo Bay is a tempest in a teapot. It is nothing of the sort. It is a serious affront to our international prestige.

As one Member of the House, let me say that this fellow Castro has proven beyond reasonable doubt that he is an enemy of this country. I am constrained to ask what the devil is the matter with us when we do not act to meet these challenges? When all that is being done apparently is to have some more discussions on how to run away from a showdown with Castro.

If we are not willing to fight to protect this land of ours, to use force if need be to defend our friends and our citizens, what is going to happen to us is certain. We are going to lose, chunk by chunk, island by island, territory by territory, all around the world, which is exactly what is happening from Panama to Zanzibar.

I am confident that Americans are not so complacent in their material plenty that they do not now realize that we must deal with Castro by force of arms, if necessary. Let us be on with the unpleasant business and the sooner the better.

We have got to change the entire foreign policy of this country from defense to offense—not for imperialism but to assure that peace, justice, and freedom will survive in this world.

COFFEE PRICES TO SKYROCKET

Mr. DEROUNIAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DEROUNIAN. Mr. Speaker, when the housewife goes marketing, these days, she complains about the steady rise in coffee prices. Each week she shops, she pays more for coffee than the week before.

On November 14, 1963, when the House was considering the legislation implementing the International Coffee Agreement, I warned that the only thing this bill would accomplish would be to fill the pockets of the coffee manipulators. Although the administration assured the Congress that coffee prices would not rise, I predicted they would. The House passed this bill by a vote of 188 to 144.

What has happened in these past 3 months? Coffee prices have spiraled. Last night, the Washington Evening Star carried this report. It is entitled "Coffee Industry Fears Continued Price Increases" and it goes on to say:

Coffee prices have been increased by 7 to 10 cents per pound since mid-December and industry spokesmen say the rise will continue unless the Government steps in with some kind of control.

The import price of green coffee has jumped from 34 cents a pound to 48 cents since mid-January, informed sources said today. However, all this increase has not yet been reflected in the retail prices.

"As soon as our present stocks are depleted I can see no way out of increasing the consumer price," one wholesaler said. The cost to wholesalers has increased about 14 cents a pound since the first of the year, while the cost to the housewife has increased only 7 to 10 cents in the same period.

The American consumers resent this raid on their pocketbooks. They resent being pawns for ill-conceived administration policies. The legislation the Congress passed gave the President the unprecedented power to manipulate coffee prices. President Johnson this week sent a message to the Congress in behalf of consumers. He can start acting for them right now.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 28]

Cramer	Horan	St. George
Davis, Tenn.	Johnson, Calif.	Schwengel
Derwinski	Long, Md.	Scott
Fulton, Tenn.	Martin, Calif.	Siler
Giaimo	Milliken	Thompson, Tex.
Hoffman	O'Brien, Ill.	

The SPEAKER. On this rollcall, 410 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE ON RULES

Mr. SMITH of Virginia. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tomorrow night to file certain resolutions.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

CIVIL RIGHTS ACT OF 1963

Mr. CELLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for 4 years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7152, with Mr. KEOGH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through title VI, ending on line 15 of page 63 of the bill.

Are there any amendments to title VI?

AMENDMENT OFFERED BY MR. WHITENER

Mr. WHITENER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITENER: Strike out all language commencing with line 1 on page 62 through and including line 15 on page 63, said language being that included under title VI.

Mr. WHITENER. Mr. Speaker, I ask unanimous consent to proceed for 10 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WHITENER. Mr. Chairman, the amendment I have offered is a very simple one. Its purpose is to strike all of that portion of the bill H.R. 7152 designated as "title VI," the title being "Nondiscrimination in Federally Assisted Programs."

There have been many of us who have been concerned about this entire legislation, but I think that from the testimony we have heard before the Rules Committee and from the questions asked when the subcommittee was considering the civil rights bill there was more concern expressed about this title than any other one proposal in the bill. I submit to you that there has been no more dangerous proposal before us since I have been in this Congress than the proposal set forth in title VI of the bill.

I should like, if I may, to give you a little of the history of title VI. You will note from the bill on page 34 that the original Department of Justice proposal dealt with this subject in this way:

SEC. 601. Notwithstanding any provision to the contrary in any law of the United States providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guaranty, or otherwise, no such law shall be interpreted as requiring that such financial assistance shall be furnished in circumstances under which individuals participating in or benefiting from the program or activity are discriminated against on the ground of race, color, religion, or national origin or are denied participation or benefits therein on the ground of race, color, religion, or national origin. All contracts made in connection with any such program or activity shall contain such conditions as the President may prescribe for the purpose of assuring that there shall be no discrimination in employment by any contractor or subcontractor on the ground of race, color, religion, or national origin.

When this subcommittee of the Committee on the Judiciary considered the bill, they were not content with this language which, in effect, was saying that nothing in the law should be construed as requiring or authorizing the permitting of this type of conduct. But they went ahead and tried to make it very stringent. Then when the midnight candle was burning, they came up with this monstrosity that we are dealing with now, and they carried forward substantially the same language as the subcommittee wrote.

You will note in the proposal of the Department of Justice in the original legislation, the word "religion" was used.

In the committee recommendation, religion was stricken out. I just wonder why that was but I am sure the gentleman from Colorado knows all about it. I wonder if he would tell us why you left religion out of this bill, that is, out of this revised bill?

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I am happy to yield to the gentleman.

Mr. ROGERS of Colorado. Mr. Chairman, we believe we should not in any way whatsoever invade the area or come in conflict with the first amendment of the Constitution of the United States and in view of recent decisions relating thereto, we felt that if that was not included, then we would have less difficulty convincing some who are interested in recognizing that there should not be discrimination on account of race, color, creed, or national origin. That is the reason why it was left out.

Mr. WHITENER. I appreciate the statement made by the gentleman from Colorado. I regret that he says the Department of Justice wanted to unconstitutionally invade an area in their proposal.

Mr. ROGERS of Colorado. Mr. Chairman, if the gentleman will yield, I never said anything about the Department of Justice in that regard. This was the action of the subcommittee.

Mr. WHITENER. Did not the Department of Justice prepare the original bill which has been stricken out of the bill we are now considering?

Mr. ROGERS of Colorado. I am not so sure that it did.

Mr. WHITENER. Then let me yield to the gentleman from New York, chairman of the Committee on the Judiciary, I am sure he would know.

Mr. CELLER. Of course, the gentleman knows that while this bill is a comprehensive bill, and as I have stated before, it does not solve all the problems because we cannot have perfection in any bill—the gentleman properly asks why religion is left out.

First. There was no need shown and there was no evidence of any religious discrimination in Federal programs.

Second. The clergy who testified accepted and stated they supported fully this bill with religion omitted.

By eliminating religion, we avoid a good many problems which I am sure the gentleman understands. The aid now goes to sectarian schools and universities. Local sectarian welfare groups, I am sure you will agree, do an excellent job. There is no religious discrimination, of course, among them.

For these reasons, the subcommittee and, I am sure, the full committee or the majority thereof deemed it wise and proper and expedient—and I emphasize the word "expedient"—to omit the word "religion."

Mr. WHITENER. I thank the gentleman. I am sure there has been a lot of evidence that some people think this would be expedient and that too little effort was being made to be sound in judgment as you considered this bill.

But the gentleman still has not given a very satisfactory answer in view of the fact that there was no testimony that there was any discrimination on the ground of religion in connection with any of the other titles of the bill.

The chairman has put the word "religion" in the bill 15 times. How does he explain that?

Mr. CELLER. Because in respect to those other sections "religion" did appear and there were some elements of discrimination based on religion, so it was deemed wise to include "religion" in those other titles.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. Only very briefly. I must get on.

Mr. WILLIAMS. The chairman made the statement that there was some evidence of discrimination on religious grounds. We have tried to get the gentleman to tell us what religion has been discriminated against and who has been doing the discriminating, and we have not yet been given an answer.

Mr. WHITENER. I thank the gentleman.

I might say to the gentleman, as a member of the Committee on the Judiciary, that many of us have been trying much longer than has the gentleman from Mississippi to get an answer to that question. We have not been able to do so. It seems a little incongruous that the proponents would deliberately strike "religion" from this section, when they have been so careful to put it in 15 other places in the bill.

Let me get on with this proposition concerning the depriving of the citizens of the United States of participation in programs which they support by involuntarily paid taxes.

There are some Members here who have made the contention that this bill should be enacted as a memorial to the late President. Many Members have

tried to make it appear that support of this proposed legislation would in some way pay a great tribute to our late and lamented President.

Let me point out what the late President had to say about this subject at his press conference on April 17 of last year, when he was asked to comment upon the recommendation of the Civil Rights Commission that he suspend or cancel financial Federal aid which flows to some of the States. Then the President said:

I don't have the power to cut off aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another might be moved to another State which has not measured up as the President would like to see it measure up one way or another.

Then, on April 19, in a statement before the American Society of Newspaper Editors, our late President said this:

Another difficulty is that in many instances the withholding of funds would serve to further disadvantage those that I know the Commission would want to aid. For example, hundreds of thousands of Negroes in Mississippi receive social security, veterans', welfare, school lunch, and other benefits from Federal programs. Any elimination or reduction of such programs obviously would fall alike on all within the State and in some programs perhaps even more heavily upon Negroes.

That is what the late President of the United States, whom some say the bill would memorialize, had to say about the type of legislation which is proposed in title VI.

I say to you that he was on sound ground.

Those Members who talk about wanting to help certain people will not be helping those people if they enact into law a provision which will give some agency the authority to deprive the colored and the white alike in a given area of the benefits of programs carried on by the Government of the United States.

Is there any Member of the House who believes that if an agency should blot out its program in a given area—whether it be in Massachusetts or Mississippi—that agency, even under this law, if the bill is passed, would have the right to say that the colored people could participate and the white people could not? Certainly no one makes that contention.

Do Members know that the President, under the proposal of the Civil Rights Commission, would have made this decision, but yet the legislation which these brilliant proposals set forth would not even give to the President or to the Congress any authority to make any determination, but would vest that authority in the agency only.

This is being done even though the President, whom my friend from Colorado and others say they want to memorialize, said he doubted that even a President should have that authority, which they want to give to a faceless bureaucrat in the multitude of agencies downtown.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. First of all, I want to say I am sure the gentleman does not want to mislead us.

Mr. WHITENER. I just want to get the facts before this group, and I hope the gentleman will help us.

Mr. ROGERS of Colorado. The facts are, if you read section 601, it says:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity—

Now, those are the things that say no person shall be denied his rights because of race, color, or national origin.

Mr. WHITENER. I cannot yield for a speech by the gentleman. He can get his own time. We can all read the bill. If the gentleman has any contribution, I will be glad for him to make it.

Mr. ROGERS of Colorado. Do you not feel that an analysis of section 601 is some contribution to this argument?

Mr. WHITENER. I do not think the gentleman is doing a very good job of analyzing it. I was referring to the analysis made by the Department of Justice on this very proposition, and if I may proceed, I would again like to call to your attention a question asked of itself by the Department of Justice and its answer. On page 51 of this brief they ask this question:

Suppose a State or locality, in administering unemployment compensation, requires its offices to maintain separate waiting lines for white and Negro recipients. Would all workmen's compensation payments to the State or locality be terminated?

The question they are asking is would all of these compensation payments to white, colored, and, if you want to put religion in, which you do not, then Catholic, Protestant, Jewish, or whatever—would they all be terminated? Now, whatever the gentleman may say about it, this is what the Department of Justice says about it:

Such separate lines would clearly be inconsistent with title VI.

That is that section the gentleman just referred to.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHITENER. Mr. Speaker, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WHITENER. Continuing on reading from the brief on page 51, it says:

But it is not contemplated that the Federal agency would take so drastic a step as to cut off all unemployment assistance until this form of segregation was ended; title VI is not intended to be punitive; to deprive all recipients—

Now, all recipients means colored and white—

of aid could result in great harm to many innocent individuals—

Innocent individuals may be members of the Negro race living in that area who would be deprived of their unemployment compensation benefits—

who desperately require assistance. Thus, for example, the agency might provide that certain administrative costs could be disallowed if such a segregation practice were followed.

So they are saying they could disallow administrative costs, but it still would not get you by the fact that the punitive provisions of title VI would fall like the dewdrops on the just and the unjust in a given area and would do damage to the very people that some of the Members of this House profess to be trying to help. I say to you there are many others of us who are more concerned about them than some of the proponents of this vicious title VI in this bill are.

Mr. Chairman, I think we are all familiar with this proposal and what it intends to do. It may well involve veterans' benefits. It may well involve the area redevelopment program, the Federal housing program, the farm program, and almost all other programs of the Government.

It will be noted in the explanation by the Department of Justice that under this provision the agency would be entitled to determine whether or not "discrimination was so widespread" as to warrant depriving an entire State of aid even though only one or two localities in that State were practicing this so-called discrimination. Some of us are concerned about the rights of all citizens. Some of us are concerned about the future of this Republic. Some of us feel that if this type of legislation is written upon the statute books without any restrictions, you give no control by the Congress, no control by the President, but place unbridled discretion in the hands of some agency head or some functionary in an agency, who can say to the people not only of Mississippi or North Carolina or Florida or Missouri, but also Colorado, New York, and Massachusetts and other places as well, that, "We find that one or two of your cities are practicing discrimination"—"discrimination" not being defined in the bill—just the word—"and therefore we are going to say that this is so widespread in your State that none of your people will be entitled to go to the unemployment compensation office and draw their compensation check; that none of your people who participate in the food-for-the-needy program are entitled in the future, regardless of their race, color, national origin, or religion, to walk in there and carry away a bag of Irish potatoes or a little bit of wheat flour or something for their families to eat."

You are going to say to the people of this country that we are giving to some bureaucrat the right to say that the little children in your State and in my State may be deprived without the consent of the President or the Congress of the right to get a bottle of milk or participate in the food lunch program in their schools. And this may apply to parochial schools, if they benefit and participate under the food lunch program.

Mr. GRANT. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I yield to the gentleman.

Mr. GRANT. The gentleman is speaking on a point in which I am very much interested; that is, under the suggested new stamp plan, is it the gentleman's opinion, taking an absurd illustration, if you please, that if a man, the head of a needy family, wanted some stamps, and should go to those in charge of issuing the stamps, and that person was a white person and met all the qualifications and if he stated, "I am against integration; I am in favor of segregation," under this broad policy, could he be denied the opportunity to receive those stamps?

Mr. WHITENER. I could not answer that. I am in the position, as I understand it, in which the Chairman of the Committee on Judiciary was when Judge SMITH and other members of the Rules Committee tried to get that question answered by him. I would just say that even if they could do that, to use the language that the Justice Department used in its brief so often: "I do not suppose that it is contemplated that that would happen."

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I yield to the gentleman from Virginia [Mr. POFF].

Mr. POFF. Mr. Chairman, I support the amendment offered by the gentleman from North Carolina [Mr. WHITENER]. In its April 1963 report, the Civil Rights Commission recommended that the President seek power to cancel or suspend Federal aid funds to States which fail to "comply with the Constitution and laws of the United States." At his April 17 press conference, the President was asked to comment on that recommendation. In response the President said:

> I don't have the power to cut off aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power.

Title VI of this bill gives the President "that kind of power" and we share the President's feelings that it is "unwise." Assuming, as the Supreme Court has said, that "what the Federal Government subsidizes it can control," should the Federal Government, acting through the executive branch, be vested with control powers to terminate or suspend by administrative fiat programs of financial assistance which the legislative branch has authorized and funded? True, this bill makes provision for judicial review of agency actions upon the demand of the State or individual aggrieved by such actions. However, agency action will have been taken, the funds will have been cut off, and the State and its citizens will have already been injured before any judicial determination of racial discrimination has been made. The cart is before the horse. Why should not the judicial determination be made first, and why should not the burden of bringing the suit rest upon the Federal Government rather than the State government or its citizens? Surely the accused should not be punished until the guilt has been established under the rules of evidence and constitutional safeguards which our American system of jurisprudence provides.

It will be seen that the judicial review authorized by this legislation—as distinguished from an original judicial proceeding—is keyed to the Administrative Procedure Act. This entails at least two pertinent consequences. First, under the Administrative Procedure Act, the review is ordinarily conducted, not by a district trial court, but by the circuit court of appeals; in all respects, this proceeding is a review rather than a trial. Second, the Administrative Procedure Act requires the circuit court to uphold the administrative findings of the agency if they are supported by "substantial" evidence. "Substantial" evidence does not mean a majority of the evidence; it does not mean a preponderance of the evidence; according to judicial construction, "substantial" evidence means only a reasonable quantum of evidence in support of the agency's decision. Why is this significant? It is significant because title VI requires the agency only to make an "express finding" of discrimination; it does not require the agency to conduct a formal hearing into that question. Accordingly, the administrator of the agency need only gather information—not under oath—treat it as evidence of discrimination, reach an "express finding" that discrimination exists, cut off the funds and then sit back and wait for the State or other recipient to take an appeal under Administrative Procedure Act to the circuit court of appeals. If the circuit court determines that "substantial" evidence exists, the agency finding is affirmed and the State is out of court without ever having had its full day in court.

We will assume, however, that although title VI does not so require, the agency would decide to conduct a full formal hearing at which the State would be permitted to produce its evidence. Even so the State would not enjoy full protection of its rights. The limited review procedure authorized in Administrative Procedure Act was justified when the act was written on the grounds that administrative agencies were supposed to have more expertise in their particular fields than the courts themselves. That is why the courts were allowed to reverse administrative findings only when they were not supported by substantial evidence, were clearly erroneous, or were contrary to law. Outside the Department of Justice itself, no administrative agency can claim to have any special expertise in the field of racial discrimination. Accordingly, the theoretical justification for the limited procedure established in Administrative Procedure Act does not exist, and because it does not exist, tying the judicial remedy of title VI to Administrative Procedure Act is not justified because it does not fully protect the rights of those charged with racial discrimination in the administration of Federal aid programs.

The foregoing consideration has to do with the judicial remedy which would be made available to those charged with acts of discrimination. It should also be remembered that this judicial procedure is available to those who bring charges of discrimination and who are aggrieved by the negative ruling of the administrative agency. Thus, no matter how frivolous the charge may be, the complainant may demand and the circuit courts must entertain petitions for judicial review. It is obvious that the passage of this legislation would clutter the docket of the circuit court with an unmanageable workload.

To what Federal aid programs would title VI apply? The subcommittee bill embraced all Federal financial assistance programs involving a grant, contract, loan, insurance, guarantee, or otherwise. The bill finally reported by the full committee narrows the scope of the act to grants, contracts, and loans. This does not mean, however, that the scope of the legislation is narrow. While it is impossible to compile a complete list, a partial list of existing Federal aid programs which apparently would be embraced will be found on page 104 of the committee report.

Not only is it uncertain what programs would be covered, it is unclear what phases of covered programs would be reached in the application of the law. Action to cut off funds can be taken not only when the agency finds that a person has been "excluded from participation in" or "denied benefits of" a Federal aid program. Such action can also be taken when the agency finds that a person has been "subjected to discrimination" under such programs. It may be clear enough what the first two clauses mean, but if it means more than the first two, what does the clause "subjected to discrimination" mean? To what does that phrase apply? Does it apply to only the direct monetary benefits under the Federal aid program? Or does it also extend to the employment practices of Federal contractors? For example, could Federal highway funds be withheld because the Administrator found that some person had been "subjected to discrimination" when he applied to the contractor or his subcontractor for a job or promotion? Can funds for the construction of hospitals under the Hill-Burton Act be denied because the administrator feels that nurses, orderlies, and other job applicants have been discriminated against because of race? Motorists receive the primary benefits under the Federal highway program; patients are the primary beneficiaries of the Hill-Burton program; but those who work for contractors constructing hospitals and building highways could be called secondary beneficiaries. To what depths may the Federal Administrator descend in searching out discrimination practiced under or incidental to Federal aid programs?

Citizens of all colors of all States pay Federal taxes. All should be entitled, without discrimination on account of race, to share in the benefits financed by Federal taxes. This cannot be, and the innocent are damned with the guilty, if a Federal executive agency can terminate Federal programs in an entire State or in some geographical portion of that State because one citizen was discriminated against by one State official or by a fellow citizen.

Mr. POWELL. Mr. Chairman, I rise in opposition to the pending amendment.

(By unanimous consent, Mr. POWELL was allowed to proceed for 5 minutes.)

Mr. POWELL. Mr. Chairman, as chairman of the Committee on Education and Labor I rise at this time to direct my remarks to that part of the bill that affects education.

I rise also because I am the author of the so-called Powell amendment which I presented on this floor for the first time on July 3, 1956, subsequently on July 5, and August 8, 1958, and on May 26, 1960. Each time I presented this amendment before you for the withholding of funds you, my colleagues in the House, sustained my amendment. It was never rejected. The Powell amendment was never rejected by this House.

Mr. RAINS. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the gentleman from Alabama.

Mr. RAINS. I would like to suggest that the gentleman has a faulty memory. Did he offer the Powell amendment to the housing bill?

Mr. POWELL. No. I am talking about education. That was the preface to my remarks. I said I would address my remarks to that part of this title which affected education and so I repeat, this House has always adopted the Powell amendment as regards education.

When I became chairman of this committee one of the things I decided on was that each member of the committee would be the author of any legislation I personally might put forward. So I gave the Powell amendment this year to the gentleman from Hawaii [Mr. GILL]. That amendment, as a bill, came out of our committee with bipartisan support this year. It was almost unanimous. Later it was embodied and broadened by the Committee on the Judiciary in title VI. I merely desired to give these remarks as the historical background.

In the 20 years that I have been here the House of Representatives during the past few days has risen to its highest peak in discussing this emotionally charged issue. I want to compliment all of my colleagues, especially those from the South, for the high level on which they have pitched their remarks, their debate, and their discussion. I think we can leave here, winners and losers, feeling proud of the fact we belong to this House. I believe that this atmosphere is because we feel that beyond the legalisms that this body is indulging in this week, there is a high sensitivity to the morality connected with this bill. This is fundamentally a great moral issue of man, and man's inhumanity to man. We are but petty men, spittled clay grown arrogant with rancor who are on this earth but for one grain in the hourglass of time. I think we all realize that what we are doing is a part of an act of God. When we talk about the color of our skin, the texture of our hair, the slant of our eyes, how high or how small we may be we are talking about an act of God. So we are not here to interfere with the acts of God. We are here today that God's children, all of the black and white, Jew and gentile, Protestant and Catholic, shall have their God-given rights. I hope we will continue this way today and tomorrow on this high level. I say "God bless all of you" as we journey together today and tomorrow, and that we shall continue to perform from our conscience in the same high spirit in which we have performed during our deliberations on this great moral issue before us.

Mr. RAINS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina, and ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. RAINS. Mr. Chairman, I shall address my remarks in the main to title VI.

In the 20 years I have been here I have seen some rather difficult bills presented on the floor of the House. While I can understand the feeling back of this legislation, in my brief appearance before the House I do not intend to speak against the equal rights of any man. This is not a bill for equal rights, it is legislation of special privilege.

What I have to say and I do not want to be unkind to the members of the committee, is that this all-inclusive bill steps over other committees' jurisdiction, in the Congress. I think there are many sections in this bill that should be separate legislation, for separate consideration by the House of Representatives. This section is one of them.

I have appreciated the level and tone of the debate. I think all of us want to stay within the bounds of reason and logic. But I was amazed yesterday, and I do not mean to criticize any individual, to see Members of the House of Representatives, known as the most careful and meticulous legislative body in the world, vote against the right of jury trial.

Before I came to this Congress I was a prosecuting attorney. I have been on both sides of the issue, have represented both the accused and the accuser, and I have profound respect for the great cloak of protection that is wrapped around any person, black or white, when he is accused of any crime, large, or small. The basic law of this country gives to the accused always the advantage of two basic rights—the right to a jury and the right to confront him with the witnesses that accuse him. Now we find this House saying, "If you are a special kind of citizen, or rather, if you commit a special kind of crime, you are not entitled to those basic principles of American jurisprudence granted in the Constitution which our forefathers wrote." Surely it is no compliment to this House of Representatives to enact any type of legislation that takes away the right of any accused, high or low, rich or poor, black or white, red or yellow, to demand a trial by a jury of his peers. I was amazed when this happened and I can only say, that thank God there is another body of the Congress that will consider and, hopefully, correct this unfortunate action by the House.

Then when we come to title VI, I am going to speak frankly to my friends on the right side of the aisle.

There is not a Member of Congress, I daresay, that has in the last 10 years brought more difficult legislation for the poor people of America before this House of Representatives than the humble speaker before you now. Time after time a great many of my friends on this side of the aisle and on that side of the aisle have pleaded the cause of the poor, black and white alike. I say to you as frankly as I ever made a statement in my life that if you enact title VI as it is now written, you will cut off and eliminate the type of legislation which I have presented to this House because it can never pass.

I look at title VI as it affects housing. Do you know what it affects? Public housing. Do you know what it affects? Urban renewal. Do you know what it affects? College dormitories, nursing homes, the nonprofit corporation type. And listen: Do you know what it leaves out? Big private enterprise. You did not put that in this bill. I am surprised that you let FHA, with its private enterprise, escape. They vote for that. Everybody does.

You let the banks escape.

You let the savings and loan associations escape.

You let everybody escape except the poor people.

Now what kind of business is that? This section needs to be amended if we are ever going to enact any other legislation of the type that we have fought for and enacted so often on this floor.

The 1961 housing bill passed by 18 votes. Sure, you can pass a type of housing bill—the type you do not want to vote for.

So while I urge to elimination of the entire section, I say with all sincerity that this section must at least be amended. Do you honestly think this Congress can ever pass a bill that will say to any city in the United States that happens to have a mayor who disagrees with the viewpoint expressed in this legislation that we can deny to all the people of that city the benefits of laws and program that we pass for the benefit of all people of the country?

Let me give you another thought. Do you realize that before you can have any of these programs, you must have appropriations? Do you realize who sit on the Committee on Appropriations in this Congress? Are they going to give money—and I am looking at them—for any bill that will not give aid to every city and municipality in the Union? You know as well as I know that they are not going to do that. So what we are doing here is placing an intolerable burden upon the programs that Members of Congress on my right have supported these many years.

It could make it easier for me—all I would have to do is to bring in a bill that the gentlemen over here on my left want—and a few more—and it would pass.

Let me bring in a bill that has any other features in it that they do not want, and it will not pass.

That is not only true on housing. It is true on area redevelopment. It is true on accelerated public works. It is true all the way down the line on every single

one of these programs. Maybe you are against it but I think the Congress ought to have a right to say whether or not the benefits of any program should go to everybody or be cut off.

Let me ask one other question. Suppose in a small town or in a large town, there is an official who objects to this type of legislation. And suppose we do not give to the black and white people alike in that city the benefits of a financial program by their government for which they have paid the taxes.

What kind of justice is that? Shall we punish all the people because of the opinion of one public official? What kind of legislating are we doing in the House of Representatives? Are we legislating for some special group or are we thinking of all the people? If we are thinking of all the people, then this section ought to come out of this bill. It does not belong in it. It will be a hobble down the way. It will curb and curtail the President's program. It is headed for trouble just a few weeks ahead.

Mr. Chairman, that is all I have to say. But I will stand on this floor again one other day and if this bill is enacted, I will remind my friends that the reason we are in trouble is because of the action which this body took on title VI.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ELLIOTT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I oppose the civil rights bill which we debate here today. I oppose its titles and its sections. I represent an area of our country that does not need, and does not want this type legislation at this time.

The civil rights bill now before us would attempt to whiplash my region of the country into changing, overnight and under extreme penalty, human beliefs, human customs, human traditions, human attitudes, and human emotions that are centuries old. In my judgment, it will do far more harm than good. It will further stir up the resentments, and further incite the passions of our people.

I make no apology for the South. None is needed. My people sincerely and conscientiously believe that the separation of the races is in the best interests of both white and Negro citizens. We make no bones about it. But this sentiment has not prevented the South from making substantial progress in the complicated and highly complex field of human relations.

For almost 20 years now, since the end of World War II, my own State of Alabama and other States of the South have been spending millions of dollars a year to improve the lot of the Negro, to provide for him better educational opportunities, better job opportunities, better housing, better hospitals, and better living conditions in general.

These are the kind of opportunities and rights that I am interested in for all our people, regardless of their race, regardless of their religion, regardless of their creed, and regardless of their national origin.

At the same time, Mr. Chairman, I am strongly committed to the right of every American to freely choose his own associates and neighbors, without having a Federal case made of it.

I am strongly committed to the right of Mrs. Murphy to rent or refuse to rent accommodations to anyone for any reason—good, bad, or indifferent—that strikes her fancy.

I am strongly committed to the right of a private businessman to hire or refuse to hire anyone for any reason, or, indeed, without reason.

In short, I am strongly committed to the right of a free people to conduct their own personal and business affairs without fear of governmental dictation or meddling.

But these inalienable rights, these most basic of rights would be swept into the gutter if this frenzied attempt to legislate "instant" equality and "instant" brotherhood succeeds. What we really need here today is "instant" commonsense and "instant" reasoning.

As I have said, all 10 titles of this bill are bad—they are bad individually and collectively. I think the title we are now debating, title VI, stands out as one of the most heartless, as one of the most vindictive of them all.

Title VI would punish the innocent and the weak for the real or imagined administrative action of the State; it would make pawns of the old and the needy; the young and the helpless; the blind and the infirm—it would jeopardize the programs which Congress, in its wisdom, has enacted to feed the hungry, to educate the youth of this Nation, to house the homeless, and to provide sustenance for the poor.

Title VI would give the bureaucrats life and death control over the dozens of public welfare and State assistance programs which are now on the statute books. This is a power that not even the President of the United States has ever been granted in the 188-year-old history of our Republic.

It is a power that the late President John F. Kennedy said last April should not be given to any President, then or in the future.

It is a power that Congress has steadfastly and consistently refused to take unto itself. Time after time, this House has wisely voted down the so-called Powell amendments which would prohibit and prevent certain of our people from sharing in the fruits of beneficial Government programs. Title VI is a whole bundle of Powell amendments.

Mr. Chairman, I am shocked by the steel-fisted arrogance of title VI; I am hurt and dismayed by the searing inhumanity of it. I am frankly apprehensive of the sweeping authority it would give to some faceless and anonymous bureaucrat to deny Federal assistance funds to any State which, in his own personal opinion, is guilty of discrimination.

This title is so poorly written that it does not even define the word "discrimination." But, of course, it cannot. There is no universally agreed upon consensus of what constitutes discrimination. We are talking about a moral issue—one that must be decided in the heart and mind of each individual.

But title VI imputes the wisdom of Solomon and something approaching divine judgment to "each Federal department and agency" in the "termination of or refusal to grant or to continue assistance" to any given State.

I think the U.S. House of Representatives is the greatest deliberative body on earth. In that spirit I say, come, then, let us reason together. Let us consider this legislation dispassionately, calmly and above the tumult and the shouting. We must not let our judgments be swayed or distorted by emotionalism. The stakes are too high. Proponents of title VI are talking about handing over control of tens of billions of dollars a year to bureaucrats who can dispense or withhold these funds on a whim.

I earnestly beseech this body to exert its own independence and support the amendment now under consideration.

Mr. GILL. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I have not taken the floor prior to this time because I felt that the business of the Committee on Education and Labor would start today and tomorrow on the two parts of the bill next in line, titles VI and VII.

I would like to preface what little I have to say on this point by complimenting our friends from the southern area of the United States for their very competent and persistent attack on this bill, and for their rational approach to many of the problems found in the legislation. I am sure that if we were in the same position, we would be hard put to equal their performance. I can say this as one coming from a State farther south than any of theirs.

I would also like to inject into this discussion the fact that no aminus is borne. I am sure all of us basically understand the terrible human dilemma that many parts of this country face today. However, we cannot avoid the issue of equal rights for all Americans. It is here with us. We are going to have to meet it. This bill is an attempt to do so in part.

The chairman of the Committee on Education and Labor, the gentleman from New York [Mr. POWELL], mentioned that title VI was to some extent an outgrowth of an omnibus Powell amendment introduced by almost all members of the Committee on Education and Labor early last year. More exactly it is in part an outgrowth of H.R. 7771 as reported out by the Committee on Education and Labor some months ago. H.R. 7771 deals specifically with five major educational programs under the jurisdiction of that committee. It is also well to note that the bill as we reported it out was far more stringent on those programs where it applied than is this title VI before us today. H.R. 7771 cut off funds, period, at a time certain, after certain findings had been made. If you will look at title VI, you will see very clearly that we have here a relatively mild form of cutoff provision. There is no mandatory or arbitrary stopping of funds.

It merely states the right of all persons not to be denied the benefits of Federal spending because of race, color, or national origin. It further states that the individual agencies will make regu-

lations to effectuate this provision. It requires that any action taken be "consistent with achievement of the objectives of the statute authorizing the financial assistance." It states that compliance will be asked for under two possible routes: One is termination and the other is by any other means authorized by law.

Further, title VI provides very clearly that the person or the agency which is denied the money, if it desires, can go to the courts—to the Federal district court in the district where the question arises—and that court can determine whether or not the cutoff is in accord with law and whether or not it was properly done under this statute.

Nowhere in this section do you find a comparable right of legal action for a person who feels he has been denied his rights to participate in the benefits of Federal funds. Nowhere. Only those who have been cut off can go to court and present their claim.

I think you will note that flexibility and caution is the rule of this title VI. It allows the administrative agency to try to work out special problems and to ask for compliance. It sets no time limit in which this compliance must be achieved. I submit that if title VI errs it is on the side of mildness.

Mr. Chairman, I think it is perfectly obvious that the great concern that arises over this section is directly related to the amount of Federal money received in some of the areas most likely to be affected. I call your attention to a recent report of the Tax Foundation which points out the States which receive more Federal money back than they pay in Federal taxes. It shows that almost all of the States of the "old Confederacy," if I may use that phrase, fall into this category.

Our southern friends have great reason for concern that they will lose some part of this Federal money. But the fact that they receive such a bountiful share of the Federal Treasury puts on their shoulder a comparable responsibility to be sure that all their citizens receive equal benefits from these funds.

Time and tide wait for none of us. The tide of history has run on this question. The time is now.

Mr. LINDSAY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise to oppose this amendment, which is a gutting amendment. That is the end of this title, if this amendment is carried, as Members well know. So now we have it out. Members know that at the present time the Federal Government in dealing with Federal funds has the power to cut off funds in some programs, to make other adjustments for statutory purposes, and to impose administrative conditions consistent with the purposes of the program. Many times, if specified conditions are not met, Federal funds are not made available. Now, in this area we have a more basic problem than in any other. Both the Federal Government and the States are under constitutional mandates not to discriminate. Many have raised the question as to whether legislation is required at all. Does not the Executive already have the power in the distribution of Federal funds to apply those conditions which will enable the Federal Government itself to live up to the mandate of the Constitution and to require States and local government entities to live up to the Constitution, most especially the 5th and 14th amendments?

I do no think anybody seriously has challenged the right of the late President of the United States to sign an Executive order having to do with discriminatory use of Federal housing money, and that includes urban renewal, as mentioned by the distinguished gentleman from Alabama [Mr. RAINS] a moment ago. That was an Executive power exercised by the President under a grant of power from the Constitution. No legislation was necessary in that case.

Now we have legislation here for two reasons. One, because in some programs we well know that separate but equal provisions are explicitly written into them. Second, there is an area of doubt as to the intent of the Congress, and that derives from the fact that antidiscrimination riders on programs providing for Federal assistance have been defeated. That casts doubt. Even during those arguments on the floor of the House—and I recall them as other Members who have been here a great many more years than I recall them, the argument was always made, "This is not the time to discuss an antidiscrimination rider." Even those Members who would vote against such a condition in any event argued that this should come up by separate legislation at a separate time. That time is here, that time is now, and this is that separate legislation. It is not tomorrow; it is here today. This is the time of decision. I respectfully submit that no Member in good conscience can ignore it; no Member can turn his back on it.

One further statement, Mr. Chairman, I listened with great interest and closely to the argument made by the distinguished gentleman from Alabama [Mr. RAINS], the chairman of the Subcommittee on Housing of the Committee on Banking and Currency, and one reason I listened with extra care is that I have an extra high regard for him, for the high standard of public service that he gives to his constituents and to his country, and the contribution that he always makes to the debates on the floor of this body.

A moment ago he asked the gentleman from New York [Mr. POWELL] whether he had not offered an antidiscrimination amendment to the housing bill. The gentleman from New York said, "I did not offer that amendment to housing." He was right. It was I who offered the amendment. The gentleman may recall it occurred during the great housing fight that took place on the floor of the House of Representatives in 1959 or 1960. The gentleman from Alabama said there were only 18 that supplied the votes necessary to carry that great event. I was 1 of the 18. That was not easy for me, because my side of the aisle was on the other side of the question. Yet my belief at that time and my concern for our cities and our people is such I am willing to take political punishment if necessary. I voted with the gentleman for the bill.

At the same time I offered and voted for an antidiscrimination rider, which was beaten down. I remember clearly at the time that the argument was made on the floor by those who were opposed to the antidiscrimination rider, that that was not the time. Wait, they said, for a separate time and separate bill. I repeat, Mr. Chairman, that time and that bill is here.

Mr. CELLER. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, I think it may be well for the purpose of legislative history to indicate the legal basis for title VI. I will say in that regard that the Congress has the fullest power to attach reasonable conditions to grants of financial assistance, and it can do that by across-the-board legislation. I refer to the Work and Hours Act of 1962, the Anti-Kickback Act of 1934. Both of these acts were applicable to contracts and work financed by Federal loans or grants, and certain conditions were attached to those grants.

The legality is based on the general power of Congress to apply reasonable conditions—they must be reasonable, of course—to grants, as was exemplified in *Unlited States* v. *San Francisco*, 310 U.S. 16, case decided in 1940; *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, case decided in 1942.

Beyond that, since the recipient has the option to accept the aid under the terms prescribed by the Congress, there is no invasion of the power reserved to the States under the 10th amendment. The power of the State is not involved. There is the option to accept or reject.

In general, it seems rather anomalous that the Federal Government should aid and abet discrimination on the basis of race, color, or national origin by granting money and other kinds of financial aid. It seems rather shocking, moreover, that while we have on the one hand the 14th amendment, which is supposed to do away with discrimination since it provides for equal protection of the laws, on the other hand, we have the Federal Government aiding and abetting those who persist in practicing racial discrimination.

It is for these reasons that we bring forth title VI. The enactment of title VI, will serve to override specific provisions of law which contemplate Federal assistance to racially segregated institutions.

As was pointed out very succinctly and logically by our distinguished colleague from New York [Mr. LINDSAY], we have such "separate-but-equal" provisions embedded in our statutes. They are contained in the Hill-Burton Act—involving grants for hospital construction, 42 U.S.C. 291e(f), and the second Morrill Land Grant Act, 7 U.S.C. 323, and by implication Public Law 815, providing grants for school construction in federally impacted areas, 20 U.S.C. 636(b)(f). The validity of such provisions are now in litigation and is the subject of conflicting judicial decisions.

You may remember that the Hill-Burton Act and the second Morrill Act contain the words "separate but equal." I believe there is a case in one of the courts of appeal which has held that

"separate but equal" as applicable to these hospital grants unconstitutional. That case has not as yet been decided by the Supreme Court. By the enactment of title VI you override all such "separate but equal" provisions for the future, regardless of the ultimate outcome of the pending litigation.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. CELLER was allowed to proceed for 5 additional minutes.)

Mr. CELLER. The enactment of title VI is intended to provide—and this is important—express statutory support for action being taken by the executive branch. As a matter of simple justice, Federal funds, to which taxpayers regardless of race, color, or creed contribute, ought not to be expended to support or foster discriminatory practices.

As has been pointed out also by my distinguished colleague from New York, while the executive branch is believed in most cases to have adequate authority to preclude discrimination or segregation by recipients of Federal assistance, the enactment of title VI would clarify and confirm that authority. It would tend to insure that the policy of nondiscrimination would be continued in future years as a permanent part of our national policy.

Enactment of title VI seeks to avoid legislative debate over the so-called Powell amendment, reference to which has been made by the distinguished gentleman from New York [Mr. POWELL] himself. You may remember that repeatedly in recent years amendments have been offered in Congress to bills providing for or extending Federal assistance to education, housing, and other matters, which would preclude assistance to segregated institutions. Such amendments have consistently been opposed by Members of Congress who favor the principle of nondiscrimination, including myself. I opposed the Powell amendment at some great discomfiture, because I heard very distinctly from my constituents that I should not oppose that Powell amendment. But I did oppose it.

Title VI enables the Congress to consider the overall issue of racial discrimination separately from the issue of the desirability of particular Federal assistance programs. Its enactment would avoid for the future the occasion for further legislative maneuvers like the so-called Powell amendment.

Mr. MEADER. Mr. Chairman, will the gentleman yield for a question?

Mr. CELLER. I yield to the gentleman.

Mr. MEADER. I had understood when the gentleman from New York [Mr. POWELL] was referring to the Powell amendment, a number of times he said, I think, every time an education bill was considered and the gentleman from New York, Representative POWELL, offered his amendment it was adopted by the House. Is my recollection correct? The Powell amendment has never become law in any act of the Congress; has it?

Mr. CELLER. I think the gentleman is correct.

Mr. MEADER. I think also there is a bill which the Senate has passed in this session which contains the Powell amendment; am I correct about that?

Mr. CELLER. I doubt very much that any act was passed containing the Powell amendment.

Mr. MEADER. No, not an act but a bill passed the Senate or at least is pending in the Senate or reported out of a committee.

Mr. CELLER. I have just been informed that an FEPC bill has been ordered reported by the other body.

Mr. MEADER. I thank the gentleman.

Mr. CELLER. Finally, Mr. Chairman, may I say that the toll of the "separate-but-equal" principle begins at birth.

In the segregated hospital, constructed with Federal funds, the chances of survival of a Negro infant or of a Negro mother giving birth in the limited and inadequate facilities provided to their race, are significantly lower than for whites. One court has not hesitated to conclude from the array of evidence presented to it—and I am quoting from the case of *Simkins* v. *Moses Cone Memorial Hospital*, 323 Fed. 2d, 959, that:

> Racial discrimination in medical facilities is at least partly responsible for the fact that in North Carolina the rate of infant mortality is twice the rate for whites and maternal deaths are five times greater.

So that I need not give you illustration after illustration along these lines—the case is clear—the record has been made. I do hope that the amendment of the gentleman from North Carolina will not prevail.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RODINO. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, we all know the Federal Government provides financial assistance for a wide variety of programs and that these programs are intended to assist or benefit certain people.

We know that the money used by the Federal Government in the conduct of these various programs comes from the taxpayers regardless of race, color, or national origin.

We also are aware of the fact that there has been cited ample evidence of discrimination in the various programs which are financially assisted by the Federal Government.

The Civil Rights Commission in its reports has brought out the fact that in programs which are presently receiving financial assistance there has been discrimination against the intended beneficiaries of such programs—discrimination on account of race, color, or national origin.

Now what does title VI of this bill do? It asserts a principle—the principle that discrimination on account of race, color, or national origin is wrong. It says to the agency or the administrator of that program that he or it is required to set up rules or regulations in accordance with the purpose of that particular program or activity in order to bring an end to discrimination on account of race, color, or national origin. But it also affords an opportunity to those who are discriminating to comply with the rules or regulations and thus not be cut off from Federal funds.

Title VI of the bill does not have as its purpose the cutting off of financial assistance to federally assisted programs. This title specifically has as its target the ending of discrimination and as long as there is no discrimination in these Federal programs, this section would not allow a cutoff of funds.

Now, Mr. Chairman, let us see what the bill actually does require.

Before the funds for any such federally assisted program are cut off, under section 602 the administration must—because he is required—set up certain rules and regulations or orders of general applicability which shall be consistent with the purposes of the program.

The administrator would set up rules and regulations so that if a case of discrimination on account of race, color, or national origin should occur, he might say to the individual, "If you comply with these rules and regulations and end discrimination, no funds will be cut off from this particular program."

Ample opportunity would be given to the recipient of the funds who might be discriminating, to end the discrimination before any funds would be cut off. As a matter of fact, throughout this title, the administrator of a Federal program would not necessarily have to cut off funds even though discrimination exists. He would set up rules and regulations. The individual discriminating might not comply with those rules and regulations, but even then, the administrator could use other means authorized by law to secure compliance. If discrimination then ended, the funds would not be cut off.

Together with this, if the person aggrieved, after an express finding on the part of the administrator of the program, felt the decision or determination was arbitrary, he might take it up under judicial review.

Mr. Chairman, we know that from time to time there has been presented to the House, in debate on various programs, the so-called Powell amendment. We know that the House has, from time to time, supported the Powell amendment. But there were many Members who, because of a vital interest in the continuance of a good program, failed to support the Powell amendment, notwithstanding the fact that they recognized there was substantial evidence that discrimination existed in those programs.

Mr. Chairman, I believe this title VI is an exercise of the undoubted power of Congress to fix the terms upon which Federal funds will be spent. The proposal expresses a principle which is fundamental and just. It would provide a fair and flexible means of effectuating the principle. It includes adequate protection against arbitrary action. I believe its enactment is long overdue. I urge, therefore, that the amendment seeking to strike this title from the bill be defeated.

Mr. DOWDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not require 5 minutes. I had prepared an amendment

to strike out sections 602 and 603 of title VI. I see no objection, so far as I am concerned, to section 601, which provides:

Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

I see no objection to that, and I would not move to strike it.

The main reason I wished time was to reply to the gentleman from Hawaii, who I believe made the statement—and I am sure he had not read the bill, or he would not have made the statement—that the provisions of section 602 would not be mandatory, and that the Federal departments and agencies would not necessarily be required to cut off funds to individuals, cities, counties, or States.

The provision begins:

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity shall take action.

It is a mandatory provision. They would have to do it; there is no getting away from that.

To back up that authority to be given in section 602, section 603 provides for a court action. However, when one reads section 711(b) of the bill, one finds that the President is to be given authority to take whatever action he wishes to take, which would include the delegation of his authority to an agency. After such delegation there would be no opportunity to appeal to any court. The individual, city, county, or State would have no recourse, and would have to accept whatever action might be taken withholding such benefits from the individual, from a county, from a city, or from a State. That represents, actually, a handing over of the economic survival of a community to the whim, even capricious or arbitrary, of some bureaucrat in one of the Federal departments. That goes too far. It would be tyranny. It would be totalitarianism. Such power should not be granted by this House.

Mr. LIBONATI. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, provision VI is the strong core of this bill. There is no question about it. The arguments against it are based on the question of the abuse of power as against the determination that men must abide by the law. I would rather that we would not need this provision in the bill, but where you have to to have drastic action to enforce the rights and liberties of men, then you must have this type of instrumentation in a bill that will bring about the desired result.

In my questioning of the Attorney General on the various provisions in the bill we came upon a discussion of this provision:

Mr. LIBONATI. Of course, on the other hand you said that sound discretion would control any activity on your part to determine the values of destroying the whole community school system where they had integrated, and one unit had not. So that is within your power to make that determination.

Attorney General KENNEDY. Yes, sir.

Mr. LIBONATI. And certainly in the public interest, no one need give you guidance on that, because you are a man of integrity and understand the responsibilities of your position.

Then below on page 2758, serial 4, part IV, October 15–16, 1963, commenting on the question of the Federal assistance programs:

Mr. LIBONATI. On the question of the Federal assisted programs, I think there again will come into play the sense of discretion of the enforcement officer as the Attorney General, who makes the determination, especially affecting matters where prejudice may result from the fact that labor unions won't cooperate and further problems will be presented to Government in that no general contractor will bid being confronted with problems with labor that he has no control over in activating his contract.

This section VI of the bill is the enforcement section to eliminate all the prejudices practiced against the Negro in the labor market, in the schools, on questions of relief and other questions. Now, you can dillydally all you want to with the question of reasonableness of this provision or question the wide powers of discretion of the officer who has been given the authority to enforce it or the honesty of purpose of the bureau that has control of it, but you have to rely on the sound reason and the analytical evidentiary facts developed by the authority; certainty the sensible decision would be not to disturb a whole community over the question of a departure by a minor unit of that community as indicated by the answer of Attorney General Robert Kennedy as above quoted. This provision is a necessary adjunct to this bill if you are going to write any purposeful bill at all. The conditions complained of do not affect only a section or part of this country. These practices are general throughout the United States. Our southern brethren here are carrying the brunt of criticism, but you and I know that some of these practices, especially in labor and in other situations, such as schools and so forth, are also a problem in the North, and if you are in any way honest with yourselves, you will either vote this bill for the purposes intended, or you will abandon it. You have here in this provision real power for enforcement, and provision VI does it. You can leave it or take it. If you are honest with the people you are trying to help, if you have the integrity within yourselves to determine that in this effort you are going to do a job at the legislative level that will bring out a bill that will give these people basic confidence in what you believe is to be accomplished and so stop their criticism of this legislative body which represents their only hope—then do not let them feel that we are only making empty gestures. This is a strong bill and this is the strongest provision in the bill, and you must vote for this provision if you vote for any bill to meet the age-old problems at hand affecting loyal and patriotic Americans—crying and pleading for equality and public acceptance.

Mr. DORN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina [Mr. WHITENER].

Mr. DORN. Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to proceed for 10 minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DORN. Mr. Chairman, my distinguished colleague who preceded me is absolutely right. This is a power bill. This is a powerful section, this title VI, bestowing more power—this entire bill, in all of its sections, but particularly title VI—bestowing more power into the hands of one man or a few men than has ever been granted before in the history of the United States.

I want to address the Committee this afternoon for a few moments on the entire bill; on why I am against this bill. It is ill timed. It is ill conceived, and is the most dangerous legislation, particularly at this time, ever to come before this Congress of the United States.

In September 1919, in the State of Massachusetts, the late President Calvin Coolidge was then Governor of that great State. In Boston, you will recall, in September of that year, there was a riot, violence in the streets of that great city, to such an extent that the Governor of Massachusetts, Calvin Coolidge, called out 10,000 National Guardsmen and put the city of Boston under martial law. And he coined that famous phrase that there would be "law and order." He called the President of the United States in the White House in Washington, a Democratic President, Woodrow Wilson; and Wilson said in substance I will send you all the ammunition, all the trucks, all the equipment you need.

The Federal Government supported the State government and order was restored. Calvin Coolidge, as a result, became Vice President with the one slogan, "Law and Order," and subsequently became President of the United States.

Today, Mr. Chairman, law and order must be maintained in this country, in order that democracy, freedom, human rights, and human liberty shall be preserved.

Yesterday I saw on the front page of the Washington Post in the column on the right, under a banner headline, a cold admission that the civil rights bill is now before this House of Representatives because of violence in the streets of the United States last year. We are operating here today under the gun—both barrels. I am afraid that some of you have had your orders, and that, therefore, you must act accordingly. But listen: I say to you, my colleagues, let me plead with you not to honor violence in the streets, not to honor those who threw whiskey bottles and brickbats at the peace officers of this country. To reward mob violence with legislation is to make a mockery and fraud of democracy. Let me warn you, especially on this side of the aisle, that I have been out in this country to address various gatherings in many areas—North, South, East, and West.

It was my great pleasure to speak before the Illinois Sheriffs Association, not too long ago; and I suggest that before you vote for this type of legislation you should contact your chiefs of police, sheriffs, your deputies, State patrolmen, your peace officers, those wearing the badge of honor, trying to preserve law and order in this country. Before you go back you had better check with them. The response that I received in Illinois from the peace officers was spontaneous and overwhelming when we discussed law and order. They expressed great concern about these screaming, yelling mobs. People everywhere are united behind the principle of law and order and respect for an officer wearing the uniform.

Sheriffs, policemen, and highway patrolmen have come to me throughout this Nation and told me they had been on shifts of 18 hours a day for weeks on end trying to preserve local government, and local law and order. Here we are in this House today operating under the gun, and they openly admit that we are here because of violence.

Mr. Chairman, if we bow to blackmail, threats, and violence and pass this bill this will only be the beginning. There will be more mobs and more legislation.

What will come before this House next if we pass this bill, operating under the theory that every time legislation is needed the way to get it considered is through bloodshed, and a disrespect for law and order at local and State level?

I am shocked, as the father of five children with four in public school, to hear of a children's school strike in New York City in violation of the law. I am the son of a mother who is still living, who taught for 32 years in the public schools of this country. I am the son of a man who spent 35 years in education when I first came to this Congress at 30 years of age. If I had even remotely dreamed of going out in the streets and causing violence against law and order, my father would have taken me out of this Congress by the collar; he would have taken me behind the barn, which still stands at Route 1, Greenwood, and he would have renewed my respect for peace officers. This is the kind of education I had. I was taught to respect, from infancy, the laws, the customs and traditions in every section of this country of ours, to respect your home and to obey your customs and your traditions and to respect your heritage, and in any community in this Nation to obey the law. When I went overseas, of course, I took off my shoes and obeyed the customs of Japan and the great Arabian world, as a man should do. It is common decency and elemental good manners to respect the religions and customs of our foreign friends.

It is even more important to do so in our own homeland. Democracy, in order to survive, Mr. Chairman, will require discipline and restraint on the part of the recipients of human rights and property rights. We have not heard any talk this week about our obligations, about our responsibilities as citizens, about our duties as citizens. I have always been suspicious of anyone who came crying on my shoulder about their rights. I always question his integrity, his character, patriotism, and courage. I want a man to come to my office and ask what can he do for his country during these critical times. I want them to come and ask what they can do to help save the United States. I would like for them to write me about their duties and obligations and responsibilities and say something about the necessity for a disciplined society.

Democracy, in order to survive, must operate with restraint and must be disciplined.

Mr. Chairman, here is the main question: Where in this world have minority races enjoyed the liberties and the opportunities remotely comparable to ours?

I want to tell you about a speech that my father taught me for a declamation contest, and I want the distinguished chairman of the Committee on the Judiciary to hear this. Do you know what the title of that declamation was he taught me? The title of it was "The Wandering Jew."

I remember standing up in that declamation contest and, with all the fervor at my command, telling my school colleagues about how our Jewish friends had been persecuted in history. They were driven from their homes, their property confiscated, and their friends murdered. They were burned alive and tortured. History has been cruel to them. The Roman Republic became an empire after they had whittled away the power of the Roman Senate and discredited that great body with the same kind of campaign that is going on against this Congress today. It was then under the Roman Emperor, and under the mighty Roman Army of Imperial Rome, with their banners and golden eagles of stark power, that they marched into the city of Jerusalem and razed the entire city to the ground in A.D. 70. And they came back again in A.D. 135 and dispersed the population over the entire Roman world.

How did that happen? Under a dictatorship, when power was in the hands of one man in the imperial city of Rome. It could never have happened under the Roman republic or in a nation with good, orderly local government.

I could tell you about the Dark Ages, how they were persecuted in the cities on the Rhine River, and how thousands of Jews were murdered for refusing to be baptized; and about the persecution and confiscation of property under Henry II of England, under Philippe IV in France. And oh, yes, I wish I had an hour and 15 minutes instead of 15 minutes.

I could tell you about when Columbus sailed across the Atlantic in 1492 to discover a new world. You know what happened that same year in Spain during the Inquisition, when Columbus was seeking this palladium of liberty where we enjoy freedom? Do you know the decree that King Ferdinand and Queen Isabella issued that year, that all of the Jewish people should be banished from Spain? This happened under a dictatorship, one man and one woman in control. It has never happened in America with its 50 States and local governments. It could happen someday if you pass this bill.

Here today you are setting up the instrumentality whereby someday that man will stride forth with hobnailed boots and he will persecute minority races in this country. With this bill you will create the machinery for him to do so and as night follows the day, discrimination and persecution will come.

In opposing this bill I am fighting today for all the minority groups. The chairman should join me in standing up for his people and all minority races and creeds. We had some persecution of the Baptists in Virginia in the early days. The gentleman from Virginia can tell you of that. Roger Williams was run out of Massachusetts and established another colony that became the great State of Rhode Island. They have had local discrimination in the United States, yes. The Mormons had to leave the great State of Illinois and go to Utah. On a local basis, yes, we have had discrimination in this country, but never before on a national scale as elsewhere in the world because we have had strong State, county, and municipal governments—all respected by the Federal Government.

I read in the press the other day about this doctor admitting that he injected into 250 people at Auschwitz this fatal injection which stopped the action of their hearts. That did not happen under local government. Dachau and Buchenwald did not happen under local and State governments, but only after the German Republic had succumbed to this kind of legislation, railroaded through the Reichstag, and after Hitler had taken over command of the states, the courts, and taken over completely from the people.

So I stand in this well today fighting and trying to preserve your opportunity and mine for all generations to come.

Let me say that it has been my pleasure to attend a great church downtown, while in Washington, with the Honorable Brooks Hays, president of the Southern Baptist Convention, and Dr. Clarence Cranford, president of the Baptist Convention. Yes, we remember Rhode Island. We remember the persecution in the early days of Virginia. But we have more freedom in this country today for all races and all creeds than they have ever known any time in the history of the world. Let us preserve this freedom by rejecting this totalitarian bill.

I am proud of the United States and the opportunity it has provided for every race and every creed.

Just 3 years ago I stood out here in the snow and watched a little Irish boy inaugurated President of the United States. I went to the great city of New York not long ago and I saw there the chapel where Al Smith used to worship. Yes, this is the land of opportunity. I hope when you go home this week you will tell the real true story of Lincoln. Tell your people that there is no man or woman in America today who does not have a better opportunity than he had. How did he improve himself? How did he reach the Presidency? By study, by

hard work, by respecting the rights of others, not by going out in the streets in rioting mobs against the American flag and against law and order.

Oh, yes, my friends, let us put first things first. Let us reject this entire bill. You know I am telling you the truth. As I sat with my colleague at the Billy Graham, President Lyndon Johnson breakfast the other morning you would have been amazed at the conversation. Mr. Chairman, you know that I admire you and love you, but hear this.

Yes, one of my good friends said, "DORN, if we had a secret vote on this thing, you know it would not get 15 votes." This, Mr. Chairman, was the opinion expressed privately at this great Christian breakfast.

Mr. Chairman, let us not turn the clock back to the reactionary times of the past with persecution, liquidation, and centralized power.

Let us not move the wheels of progress back to the days of Roman dictatorship, Spanish terror, or the raving Hitler. But, Mr. Chairman, let us move forward with our new, modern dynamic philosophy of State rights, strong community government, and individual freedom.

You know I was proud to serve with six brothers in World War II. Some of us were all the way from Normandy right on down to the gates of Berlin. It afforded me the greatest satisfaction of my life to see that dictatorship destroyed—once and forever.

I regret to see us, standing in this House today and day after day, placing around the necks of the people of this country the shackles of totalitarianism.

Mr. Chairman, I yet hope my colleagues on the left when they make their Lincoln Day talks will quote that great American William E. Borah when he said during a civil rights debate:

> Why beholdest thou the mote that is in thy brother's eye and consider not the beam that is in thine own eye?

No wonder he stands outside in the hall of fame.

My friends quote George W. Norris when he said:

> I would rather go down to my political grave with a clear conscience than ride in the chariot of victory * * * a congressional stool pigeon, the slave, the servant, or the vassal of any man, whether he be the owner and manager of a legislative menagerie or the ruler of a great nation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MATTHEWS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I humbly ask for just 3 additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. MATTHEWS. Mr. Chairman, it is very difficult to follow the magnificent and sincere oration of the distinguished gentleman from South Carolina.

Mr. COLMER. Mr. Chairman, will the gentleman yield for just one question?

Mr. MATTHEWS. I am delighted to yield to the gentleman.

Mr. COLMER. Mr. Chairman, I did not want to interrupt the previous speaker during his very interesting talk and I should not have interrupted the gentleman from Florida at all, but, Mr. Chairman, I ask unanimous consent that the gentleman may have 2 additional minutes making the gentleman's time 10 minutes altogether.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. MATTHEWS. I thank the gentleman.

Mr. COLMER. I said I did not want to interrupt the distinguished gentleman from South Carolina during his speech, bnt I do not mind interrupting the distinguished gentleman from Florida before he gets started. But I wanted to point out to those who seem to take so much pleasure and pride and profit in the fact that they have similar laws in their own States—in fact, they say there are some 30-odd States that have laws somewhat similar to this. Is it not one thing to have laws in the State with local jurisdiction and local implementation and administration? And is it not a distinctly different thing to centralize that power in the strong arm of the Federal Government located here in Washington?

Mr. MATTHEWS. I certainly do agree with the gentleman. I think he has made a very good observation.

Mr. Chairman, if I were to call this title VI a title, it would be "Let the little children suffer." Yes, it would be "Let the little children suffer" title.

Now I speak not as a lawyer but I do speak as a former schoolteacher and despite all of the reassurances of our colleagues who propose this title, I still say to you as one who tried to teach English for a number of years, I still do not know what discrimination means. I still believe if we pass this title, it may mean that school lunch funds, for example, will be denied children in our schools.

What do we mean by discrimination? You see this title says "if there be discrimination"—it says "if there be discrimination these funds can be cut off." You look in your dictionary: It may mean "differentiation," "difference," "distinction," "test," "judgment," "insight," "critical perception," "discernment," "bias."

I think what the authors may mean is prejudice. It can mean "prejudice," "exclusion" or "to make distinctions in treatment" or "to show partiality."

Let us consider a class in vocational agriculture, for example. Could a class in vocational agriculture present the play "Othello"? Would the use of makeup be considered discrimination against a certain color?

You may laugh, but think about it.

Could a minstrel show be presented by this class in vocational agriculture, or a play with Indians killing Puerto Ricans?

I feel that if our citizens who are American Indians had more voting power, they would be able to call a halt to this constant stream of television shows which always—or at least in most instances—represent the Indian as the killer, when his adversary is at least as ferocious.

Could such a class in vocational agriculture present a comedy sketch, with characters daubed with white paint? Would this be considered as discriminating against the white people?

Now, if Members think these suggestions may be farfetched, my colleagues from Philadelphia will remember that only a few days ago there was a Mummers parade in Philadelphia. They will remember that the parade was ordered to be strictly limited, insofar as costumes and makeup were concerned, because the costumes and makeup were deemed to be, I suppose, discriminating against certain people, or at least offensive to certain people.

Now, what will be next? Must the convival paraders now be required to remove their well-worn golden slippers and replace them with shoes of another color?

So, would it be possible to deny funds—Federal funds—to the class in vocational agriculture because in such activities they practice discrimination?

Let us consider another situation. Suppose that in Florida some of our students and the principal of a school insisted on singing the Florida State song like Stephen Collins Foster wrote it—"Way Down Upon the Swanee River."

Remember those words:

> Oh, darkies, how my heart grows weary—
> Far from the old folks at home.

The song in the District of Columbia does not have the words "Oh, darkies." It is, "Oh, old folks."

When you go back to your homes and look at your songbooks, I suspect that you will find "Oh, old folks" or "Oh, brothers." You will not find these words sung on television like Stephen Collins Foster wrote them. Would that be discriminating against certain people?

Suppose an obstinate principal said, "We are going to sing those words just like the poet wrote them." Would that be discriminating against certain people? Would the schoolchildren be denied the school lunches or the school milk program?

I maintain that under the language of this bill the administration of a program in the hands of an unfriendly Federal agency could result in that action.

I wonder, my colleagues, if our representatives of the cloth—ministers of my own religious faith, and from all faiths—who have left their congregations and have gone to demonstrating for civil rights, would approve of this denial? I cannot believe they would. I believe that they who sincerely quote from Him who said, "Suffer little children to come unto me" would not take the position "Let the little children suffer" for the supposed or even the factual sins of others.

With profuse apologies to my dear friend the gentleman from Arizona [Mr. UDALL], following his excellent poetical contribution of another day, I wish to say:

> We paid for Oswald's return to our beloved homeland,
> We send food to the Communists with outstretched hand—
> But for little Americans in school, in county or city,
> We have no concern, we show them no pity.

I wish to say to my distinguished friend, the gentleman from Arizona, I

read this poem to a colleague, and I also read to him my colleague's poem. That colleague told me that both poems reminded him of some words written by A. E. Housman in "A Shropshire Lad":

But, oh, good Lord, the verse you make,
It gives a chap the stomach ache.

Mr. Chairman, I say in conclusion in all sincerity this title VI should not be in the bill. You who will go home next week to talk about Lincoln, the man who expressed in his life malice toward none and charity toward all can ill afford to vote for a section which will deny little children the school lunch program or the school milk program.

Those of us on our side who pay tribute to him who lies in silent repose by the ever-burning flame yonder in Arlington Cemetery—in that fairyland of mountain, river, and fern, can ill afford to vote for this title because it does not pay tribute to that man who gave his life for his country. He was not for this title, and despite whatever legal terms we phrase this language in, my colleagues, you are denying boys and girls of all colors, races, creeds and religions—if you are not careful, you are denying them food, you are denying them milk, and you are denying them the necessities of life. Let us defeat this title. Let our purpose be not to let the little children suffer, but "Suffer the little children to come unto Me."

Let us examine this bill in depth.

Mr. Chairman, the Constitution of these United States in article VI, clause 3, requires that Senators and Representatives, among others, "shall be bound by oath or affirmation to support this Constitution." Immediately after its ratification, the First Congress enacted legislation—act of June 1, 1789, chapter 1, section 2, 1 Stat. 23—embodying this constitutional command. This legislation is presently covered in section 25 of title 2 of the United States Code, and provides, in part, that—

At the first session of Congress after every general election of Representatives, the oath of office shall be administered by any Member of the House of Representatives to the Speaker; and by the Speaker to all the Members and Delegates present * * * and to the Members and Delegates who afterward appear, previous to taking their seats.

Section 16 of title 5 of the United States Code contains "the oath to be taken by any person elected to any office of honor or profit" in the service of the United States. In conformity with the constitutional mandate, each and every Member of this House has repeated those most familiar words:

I, ——— ———, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation and purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

This is indeed a solemn oath, Mr. Chairman. By it, each and every Member of this House declares before God and the Nation that he will ever repair to and be guided by the fundamental principles embodied in the Constitution in the performance of his legislative duties. In brief, we are duty bound to see that the legal cloth we cut conforms to the pattern embraced in this our most cherished document. We cannot—we dare not without betraying this sacred oath—distort the pattern to accommodate legislation for any reason whatsoever.

The specter of unconstitutionality raised by this so-called civil rights bill represents a direct and immediate challenge to the oath we have taken to support the Constitution. The issues involved in this far-reaching proposal far and away exceed our own personal feelings on racial matters. They go to the very heart of the Constitution. The Constitution of these United States—"the most wonderful work ever struck off at a given time by the brain and purpose of man"—transcends personal or individual feelings and convictions. As we discuss this bill, let us endeavor to reconcile its provisions not only with narrow legal considerations—considerations which, as I will show, are opposed to the enactment of this proposal—but also with the grand design of the framers. That grand design is epitomized by such constitutional concepts as a national government of enumerated powers and the separation of powers. Let us heed the admonition of an earlier constitutional authority who said:

Public sentiment and action effect * * * changes * * * [in the principles of the common law] and the courts recognize them; but a court or legislature which should allow a change in public sentiment to influence it in giving to a written constitution a construction not warranted by the intention of the founders, would be justly chargeable with reckless disregard of official oath and public duty. (Cooley, "Constitutional Limitations," 6th ed., p. 69.)

The Constitution, contrary to what some persons would have us believe, is not a matter of personal conviction. Designed "to endure for ages to come," it remains unaffected by such ephemeral considerations as individual morality, personal views of right and wrong, or individual notions of the role of government in society. If the Constitution has displayed a remarkable relevance in all ages and under all circumstances—which indeed it has—it is because of the universal quality of the principles expressed therein; not because it bends reedlike before the ever-changing wind of public opinion. Universal principles, universally recognized and universally respected. This is the foundation upon which this Nation was conceived, under which it has achieved preeminence, and, continued adherence to which, will insure its survival.

To those who view constitutional principles as considerations wholly dependent upon time and circumstance—a view which invariably amounts to little more than the personal preferences of the exponent—I repeat the words of Thomas M. Cooley. In his "Treatise on the Constitutional Limitations," this learned author states:

A constitution is not to be made to mean one thing at one time, and another at some subsequent time when the circumstances may have so changed as perhaps to make a different rule * * * seem desirable. A principal share of the benefit expected from written constitutions would be lost if the rules they established were so flexible as to bend to circumstances or be modified by public opinion. It is with special reference to the varying moods of public opinion and with a view to putting the fundamentals of government beyond their control, that these instruments are framed.

Since the introduction of this legislation, a great many persons have suggested that we forego any discussion of the constitutional issues by passing the buck to the courts. Of course, it might simplify a whole host of problems if we just forgot about the Constitution altogether. In the words of one wit: "What's a constitution between friends." To those who urge this course of action, I would say that it is our duty in the first instance, to determine not only the wisdom of proposed legislation, but also its constitutionality. The oath we have taken implies at least this much. This is the first line of constitutional defense; or to put it in the current bureaucratic vernacular, "the buck stops here."

As for the implication that the courts will find a salutary solution to every problem, legal or otnerwise, we might all reflect a moment or two on the wise counsel of one of the present members of the Supreme Court, who recently said:

One of the current notions that holds subtle capacity for serious mischief is a view of the judicial function that seems increasingly coming into vogue. That is that all deficiencies in our society which have failed of correction by other means should find a cure in the courts. * * * Some well-meaning people apparently believe that the judicial, rather than the political, process is more likely to breed better solutions of pressing or thorny problems. This is a compliment to the judiciary, but untrue to democratic principle.

A judicial decision which is founded simply on the impulse that "something should be done," or which looks no further than to the "justice" or "injustice" of a particular case, is not likely to have lasting influence. * * * Our scheme of ordered liberty is based, like the common law, on enlightened and uniformly applied legal principle, not on ad hoc notions of what is right or wrong in a particular case. (Justice Harlan, address to the American Bar Association.)

A simple reading of this civil rights bill makes it immediately apparent why some of its most ardent supporters would have us gloss over the legal issues. Many of its provisions are so clearly unconstitutional that I cannot conceive their being enacted by this or any other Congress cognizant of its constitutional duties and obligations. Title I, dealing with voting rights, is essentially a variation on the thoroughly discredited literacy test proposal introduced during the 87th Congress. Title II, the so-called public accommodations provisions of the bill, is the most brazen attempt to impose Federal authority directly on private citizens and private property since the ill-fated Civil Rights Act of 1875. Title VI, the withholding authority, is a brilliant example of how not to solve the racial problem. In short, the infirmities of this bill are so numerous and manifold, that its enactment requires not only a disregard of oath of office, but a

complete and total loss of sight and hearing.

I turn now to a detailed examination of the legal principles involved.

Title I, as I have already indicated, deals with voting. Its purposes, according to its advocates is to eliminate discrimination in the application of literacy tests and to speed up the processing of voting suits through the Federal courts. Although my objections to the bill are based primarily on legal grounds, I am somewhat perplexed as to the necessity for this legislation at this time. We enacted legislation dealing with voting in 1957 and again in 1960. Nevertheless, and without allowing sufficient time for the ink to dry on these recent enactments, we are being importuned to legislate further in this area. I seriously doubt that enough time has elapsed to permit a judgment respecting the adequacy or inadequacy of existing legislation. In brief, there appears to be no basis whatsoever for arguing the necessity of this legislation at this time.

Section 101(b) of title I of the bill would amend 42 U.S.C. 1971(c), which authorizes the Attorney General of the United States to bring a suit in the name of the United States in behalf of any qualified American citizen who is wrongfully denied his right to register and vote or who is threatened with a wrongful denial to register and vote. This section—1971(c)—would be amended so as to establish a presumption of literacy in these voting suits, that is to say, any person who has completed the sixth grade in an accredited school where instruction is predominantly in the English language would be presumed to possess sufficient literacy to vote in any Federal election. Unlike the 1962 proposals, this section would apply solely to Federal elections and limits literacy to mean literacy in the English language. Furthermore, the presumption, rather than applying universally in connection with voting registration, applies solely in voting suits authorized by 42 U.S.C. 1971 (c). Notwithstanding these changes, this proposal constitutes an unwarranted and illegal intrusion into an area of State responsibility.

Although a great many changes have been wrought since the adoption of the Constitution, I believe that it is still the consensus of this House that Congress is a body possessing only limited powers. Any legislation which it enacts must be based upon a grant of constitutional power. What is the source of congressional power to impose a Federal standard of literacy, however narrowly confined, for voting purposes? If that power exists at all, it must be found in either the 14th, 15th, and 17th amendments, or article I, section 4, clause 1 of the original Constitution.

Concerning the qualifications of voters for U.S. Senators and Representatives, the Constitution provides as follows:

Article I, section 2, clause 1 provides that—

> The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

The 17th amendment in turn provides that—

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

The language of these two sections is clear beyond all doubt. The States, not the Federal Government, have been authorized to determine the qualification of its voters. Although the States may not prescribe the qualification of voters for Members of Congress as such, the qualifications prescribed by the States for electors of the most numerous branch of their legislatures are adopted by the Constitution as those applicable in the case of elections for Senators and Representatives.

Thus, Mr. Justice Miller, in *Ex parte Yarborough*, 110 U.S. 651, said:

> The States in prescribing qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. * * * They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for Members.

In *United States* v. *Miller*, 107 F. 913, the Court in discussing the power of the States under article I, section 2, prior to the adoption of the 15th amendment declared:

> Before the adoption of the 15th amendment, it was within the power of the State to exclude citizens of the United States from voting on account of race, age, property, education, or on any other ground, however arbitrary or whimsical. The Constitution of the United States, before the adoption of the 15th amendment, in no wise interfered with this absolute power of the State to control the right of suffrage in accordance with its own views of expediency or propriety. It simply secured the right to vote for Member of Congress to a definite class of voters of the State, consisting of the most numerous branch of the State legislature. Further than this, no power was given by the Constitution, before the adoption of the 15th amendment to secure the right of suffrage to anyone.

As we shall soon see, the adoption of the 15th amendment did not confer the right of suffrage upon anyone, nor did it limit the State's acknowledged "absolute power" only to the extent that it could not favor, for voting purposes, one citizen over another solely on the basis of race, color, or previous condition of servitude. (*Pope* v. *Williams*, 193 U.S. 621.)

THE 14TH AMENDMENT

The relationship of suffrage to the 14th amendment was discussed in *Minor* v. *Happersett*, 88 U.S. 162. Chief Justice Waite, speaking for the Court, said:

> The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the Constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.

In 1898, in the case of *Williams* v. *Mississippi*, 170 U.S. 213, the Supreme Court held that a provision of the Mississippi constitution making the ability to read any section of the constitution, or to understand it when read, a necessary qualification of a legal voter, did not on its face, discriminate between the white and Negro races, and did not amount to a denial of the equal protection of the laws, secured by the 14th amendment.

It is apparent that supporters of this proposal can draw little comfort from the 14th amendment.

THE 15TH AMENDMENT

The 15th amendment deals exclusively with suffrage. It provides:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The language of this amendment is negative in character. It prohibits States from denying the right to vote to anyone on account of race, color, or previous condition of servitude. No power was given to Congress to regulate in elections save in this narrowly defined area.

In *Reese* v. *United States*, 92 U.S. 214, the Supreme Court said:

> The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude.
>
> The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of a qualified elector at such elections is because of his race, color, or previous condition of servitude.

The power of Congress under the 15th amendment and the power of the States under article I, section 2, was examined by the Court in *United States* v. *Miller, supra*. The Court concluded as follows:

> The 15th amendment does not in direct terms confer the right of suffrage upon anyone. It secures to the colored man the same rights to vote as that possessed by the white man, by prohibiting any discrimination against him on account of race, color, or previous condition of servitude. Subject to that limitation, the States still possess uncontrollable authority to regulate the right of suffrage according to their own views of expediency.

This interpretation was apparently adopted by the Supreme Court in *Pope* v. *Williams*, 193 U.S. 621, wherein it said:

> The privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution.

After noting examples of qualifications that States could and did impose, the Court said:

The Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution already stated; although it may be observed that the right to vote for a Member of Congress is not derived exclusively from the State law. * * * But the elector must be one entitled to vote under the State statute. * * * The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one.

In *Guinn* v. *United States*, 238 U.S. 347, the Supreme Court took a look at the question of literacy tests and their possible relation to the 15th amendment.

Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals. * * *

It is true also that the amendment does not change, modify, or deprive the States of their full power as to suffrage except of course as to the subject with which the amendment deals and to the extent that obedience to its command is necessary. Thus, the authority over suffrage which the States possess and the limitation which the amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both.

No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted.

It is obvious from the Guinn case that the States have the power to determine the qualification of its voters and that they may establish literacy tests as a prerequisite of voting.

The principle of the Guinn case was reaffirmed in the unanimous opinion of the court in *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 95 (1959).

It is apparent from these cases that the 15th amendment does not confer the right to vote upon anyone. That amendment presupposes that the prospective voter is able to pass all legitimate tests required by the States in which he seeks to register. Its sole purpose is to prevent the States from giving preference to one citizen over another on account of race, color, or previous condition of servitude. Since literacy is in no way limited to race, the imposition of a Federal standard is not appropriate legislation under the 15th amendment.

Article I, section 4, clause 1: The sole remaining possible source of power to enact this legislation, is in article I, section 4, clause 1, which provides:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulation, except as to the place of choosing of Senators.

The constitutionality of Federal legislation prescribing qualifications for voters in the States for Members of Congress has never been before the Supreme Court. We are not, however, without any guides as to congressional power under article I, section 4, clause 1. Giving the words of the section their plain, ordinary meaning it is obvious that the authority to direct the time and manner in which officers shall be elected, does not involve the power to determine who shall comprise the electorate.

Justice Field, dissenting in *Ex parte Clarke*, 100 U.S. 399, 404 (1879), said as much:

The power vested in Congress is to alter the regulations prescribed by the legislatures of the States, or to make new ones, as to the times, places, and manner of holding the elections. Those which relate to the times and places will seldom require any affirmative action beyond their designation. And regulation as to the manner of holding them cannot extend beyond the designation of the mode in which the will of the voters shall be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to, or involved in, the manner of holding the election, and their regulation rests exclusively with the States. The only restriction upon them with respect to these matters is found in the provision that the electors of representatives in Congress shall have the qualifications required for electors of the most numerous branch of the State legislature, and the provision relating to the suffrage of the colored races. And whatever regulation Congress may prescribe as to the manner of holding the election for representatives must be so framed as to leave the election of State officers free, otherwise they cannot be maintained.

I think it clear from Justice Field's comment that the qualification of voters can have no reasonable relationship to the "times, places, and manner of holding elections." It is equally clear that any attempt to establish a Federal standard for voter qualifications constitutes an abridgement of powers guaranteed to the States. The fact that the bill raises the presumption in the narrower area of voting suits does not change this result one iota.

Title II, the so-called public accommodations section of the bill, represents, if anything, a more radical departure from established constitutional principles than any piece of legislation proposed since the Reconstruction period. The constitutional objections to this proposal have been expressed on countless occasions and appear to my mind insurmountable. Its introduction now is testimony to the extreme emotionalism engendered by events of recent months. But for this emotionalism, I cannot conceive anyone seriously suggesting the existence of congressional power to enact it. If enacted and sustained I cannot conceive any human activity which may not be regimented to Federal authority.

Section 201(a) of the bill provides that—

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

There then follows an enumeration of the facilities and services involved and the circumstances under which the Federal Government may interfere to nullify the personal and private wishes of the owner of the facility or purveyor of services. Among the facilities and services covered are hotels, motels, or other places providing lodging to transient guests; motion picture houses, theaters, sports arenas, stadiums, exhibition halls, or other places of amusement or entertainment; restaurants, lunchrooms, lunch counters, soda fountains, or other places which offer food for consumption on the premises.

The bill would make access to these facilities and services a Federal right enforceable by the judicial, and, I suppose, military, arm of the Federal Government.

As we all know, the power of Congress to enact any piece of legislation must be traceable to a grant of such power in the Constitution. Where in the Constitution is this body authorized the unlimited power implicit in this bill? Sponsors and supporters of this proposal are not in complete agreement. Some point to the 14th amendment; others gaze hopefully upon the commerce power; and, as might be expected, some look longingly to both.

FOURTEENTH AMENDMENT

Mr. Chairman, an old professor during my college days would perfunctorily admonish the class to adhere to the facts. His pet expression was:

Ladies and gentlemen, I want the facts; please leave the poetry for English 1.

What are the facts—the legal facts—respecting Congress' power to effect the enactment of the public accommodations provisions of this bill? An objective analysis of these facts makes it unmistakably clear that no such power is granted to Congress, particularly by the 14th amendment. Section 1 of the 14th amendment states:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5 of the amendment provides:

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The crucial words in that amendment are "no State shall." It is the sine qua non for the exercise of powers granted by section 5.

It has uniformly been held by the courts that the prohibitions in section 1 are restrictions on the actions of the States and are not operative against individuals acting alone. It has been held

that any action on the part of a State or its political subdivisions, whether legislative, executive, or judicial, is the touchstone for the exercise of Federal power authorized by that amendment. Thus, such governmental instrumentalities as municipal recreational facilities, public libraries, and public schools may not violate the prohibition and restrictions set forth therein.

Notwithstanding the voluminous precedent to the contrary, this bill seeks to regulate and restrict purely private individual acts—such acts as performed by restaurateurs, movie house operators, and hotel owners. There is not the slightest trace of State involvement in these and similar activities; nor does the bill presume the existence of any.

Another limitation with respect to the 14th amendment is that the legislation "which Congress is authorized to adopt by section 5 is not general legislation upon the rights of citizens but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as States may adopt or enforce, and which by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking," *Civil Rights Cases*, 109 U.S. 3. In brief, Congress cannot prohibit any action not already prohibited by that amendment. When such an act is shown to exist, Congress may validly correct it but it cannot, on the basis of that amendment, operate against persons by creating any new Federal right.

Let us examine for a moment, the course of 14th amendment decisions—decisions which give little comfort to the sponsors and supporters of this legislation.

The 14th amendment was initially construed in the *Slaughter-House Cases*, 83 U.S., 16 Wall. 36 (1873). Although this decision is primarily concerned with the meaning of the citizenship clauses and the privileges and immunities clause, the Court did discuss the meaning of the equal protection clause, and with respect to the 13th and 14th amendments, made the following observations:

> In the light of the history of these amendments, and the pervading purposes of them, which we have already discussed, it is not difficult to give meaning to this clause.
>
> The existence of laws in the States where the newly emancipated Negroes resided, which discriminated with gross injustice and hardship against them as a class, was the evil to be remedied by the clause, and by it such laws are forbidden.

It is important to remember that this decision was handed down in 1873, just 5 years after the adoption of the 14th amendment. Here we find the members of the Court, contemporaries of the framers of that amendment, declaring that it was the existence of State laws which fell within the purview of that amendment's prohibitions and restrictions.

Ten years later, in 1883, the Supreme Court held unconstitutional the forerunner, if not the twin, of the measure which we are importuned to enact now. That decision, involving five separate cases, are collectively cited as the *Civil Rights Cases*, 109 U.S. 3 (1883). The case dealt with the Civil Rights Act of 1875, 18 Stat. 335 (1875). Section 1 of the act provided:

> That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusements, subject only to conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Section 2 provided that any person denying such rights, or aiding or inciting such denial, should pay $500 to the person aggrieved, or alternatively should be prosecuted for a misdemeanor and fined $500 to $1,000 or imprisoned from 30 days to 1 year.

The individual cases which comprised the Civil Rights cases all involved discrimination by private persons. Of the five cases consolidated for purposes of this decision, two involved the refusal of lodging accommodations to Negroes, two others involved the refusal of admission of Negroes to theaters, and the fifth case involved the refusal of a railroad to allow a Negro the full and equal use of a railroad car.

The Supreme Court declared the act unconstitutional as applied to acts of racial discrimination by private persons. With respect to Congress power under the 14th amendment, the Court said:

> The first section of the 14th amendment (which is the one relied on) after declaring who shall be citizens of the United States, and of the several States is prohibitory in its character and prohibitory upon the States.
>
> It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law or which denies to any of them the equal protection of the law.

The Court declared that Congress authority to enforce the provisions of that amendment was corrective only; that is, it conferred upon Congress the power to correct the effect of prohibited State laws and State acts. In the words of the Court:

> The last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition. To adopt appropriate legislation correcting the effects of such prohibited State laws and State acts, and thus to render them effectively null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation, or State action of the kind referred to.

And again:

> In fine, the legislation which Congress is authorized to adopt in this behalf [equal protection and due process] is not general legislation upon the rights of the citizen, but corrective legislation; that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which by amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take and which by amendment they are prohibited from committing or taking.

Continuing on with its discussion of the rights secured by the equal-protection and due-process clauses, and Congress power to enforce them, the Court said:

> In this connection it is proper to state that the civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful acts of an individual, unsupported by any such authority is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or juror; he may by force or fraud, interfere with the enjoyment of the right in a particular case, he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow citizen; but unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment; and amenable therefore to the laws of the State where the wrongful acts are committed.

If the first section of the 14th amendment was not limited to State action in derogation of individual rights, the Court reasoned that the effect of the amendment would be to weaken the Federal system. To interpret the 14th amendment as permitting Federal protection of individual rights against other individuals, would enable Congress "to establish a code of municipal law regulative of all private rights between man and man in society" and would ultimately lead Congress "to take the place of State legislatures and to supersede them."

The decision of the Supreme Court in the Civil Rights cases makes two points with unmistakable clarity: One, that the prohibitions of the 14th amendment apply not to individual invasions of individual rights, but solely to denials which result from actions by the State; two, that the power conferred on Congress by section 5 of the amendment does not permit the enactment of general legislation, but only grants authority to enact corrective legislation to prohibit States from denying the rights declared therein.

The decision in the Civil Rights cases has never been overruled and remains the law today. It has been followed and reaffirmed in countless cases in the intervening years since 1883. These cases offer little comfort to those persons who suggest that the present Supreme Court would overrule them. Thus, for example in 1948, in the case of *Shelley* v. *Kraemer* (334 U.S. 1), the Court, while holding that a restrictive covenant entered into

by private property owners could not be enforced in the courts, said:

Since the decision of this Court in the *Civil Rights* cases, 109 U.S. 3 (1883), the principle has become firmly embedded in our constitutional law that the action inhibited by the first section of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment creates no shield against merely private conduct, however discriminatory or wrongful.

The point was recently reaffirmed in *Petersen* v. *City of Greenville* (373 U.S. 244), decided on May 20, 1963, along with a spate of so-called sit-in cases. In that case the Court said:

It cannot be disputed that under our decision private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it.

It is regrettable, not to say somewhat ludicrous, to hear persons, at one and the same time, advocating that the Brown decision is the supreme law of the land and that the Civil Rights cases are not. We can't have it both ways, Mr. Speaker. We cannot pick and choose among the cases to satisfy our personal likes and dislikes. What is true for private citizens is equally true for the Congress.

There is another group of persons who advance the novel notion that State action exists in individual action—this is contradictory on its face—where the individual action, such as the operation of a business, is regulated by the State in the form of sanitary, fire or occupany requirements or by virtue of the simple act of licensing. It is therefore argued, the operation of the enterprise becomes State business subject to all the limitations and conditions imposed by the 14th amendment upon the States.

Given syllogistic form, this tortuous method of finding State action would read as follows:

All businesses licensed or regulated by the State, are State businesses;

Joe's laundry business is licensed by the State;

Therefore, Joe's laundry business is a State business.

Thanks be to God, Mr. Chairman, the major premise is not a universal proposition in this country where the word enterprise is still prefaced by the adjective free.

Assuming for the moment, however, some amount of verity in this chameleon-like fantasy, let us ask ourselves what is the nexus between the fact of licensing and the resulting discrimination? The act of licensing is, of course, State action, "but this is not the end of the inquiry. The ultimate substantive question is whether there has been State action of a particular character—(Civil Rights cases, supra, at 11)—whether the character of the State's involvement in an arbitrary discrimination is such that it should be held responsible for the discrimination"—Justice Harlan, Peterson against City of Greenville, supra. Obviously there is no relationship between these two factors and to create such a legal fiction would raise a whole host of problems. I will only suggest one example. If the State is to be held responsible for the discrimination resulting from the conduct of a privately owned but licensed business, say a laundry, may not it likewise be responsible for the loss of my shirt?

If this analogy appears somewhat far fetched, it is simply because it arrives at a conclusion which the adherents of the licensing theory do not want to reach. The reasoning in both cases is the same.

The flaw in this argument results from a confusion between a license and a franchise. In the New York case of *Madden* v. *Queens County Jockey Club*, 72 N.E. 2d 697, the court was asked to determine whether the operator of a racetrack could without reason or sufficient excuse exclude a person from admission to the races held therein. In upholding the right of the operator to be as arbitrary as he please in the conduct of his business, the court discussed the plaintiff's contention that the license "constituted the licensee an administrative agency of the State and a permit to perform a public purpose." The court said:

Plaintiff's argument results from confusion between a "license" imposed for the purpose of regulation of revenue, and a franchise. A franchise is a special privilege, conferred by the State on an individual, which does not belong to the individual as a matter of right. It creates a privilege where none existed before, its primary object being to promote the public welfare. A familiar illustration is the right to use the public streets for the purpose of maintaining and operating railroads, waterworks and electric light, gas and power lines.

A license, on the other hand, is no more than a permission to exercise a pre-existing right or privilege which has been subjected to regulation in the interest of the public welfare. The grant of a license to promote the public good, in and of itself, however, makes neither the purpose a public one nor the license a franchise, neither renders the place public nor places the licensee under obligation to the public.

This distinction has been no less clearly noted by the Federal courts. In *Bowman* v. *Birmingham Transit Co.*, 280 F. 2d 531 (1960), the Court of Appeals for the Fifth Circuit held that a city transit company could not segregate bus passengers on racial grounds.

Because of the peculiar function performed by this transit company as a public utility, and its relation to the city and State of Alabama through its holding of a special franchise to operate on the public streets of Birmingham, we conclude that so long as such an ordinance was in force, the acts of the bus company in requiring racially segregated seating were State acts and thus violative of appellants' constitutional rights.

The ordinance referred to provided that carriers could formulate such rules and regulations for the seating of passengers on public conveyances as were reasonably necessary to assure the speedy, safe, orderly, convenient and peaceful handling of its passengers.

On the distinction between a license and a franchise the court said:

It is, of course, fundamental that justification for the grant by a State to a private corporation of a right or franchise to perform such a public utility service as furnishing transportation, gas, electricty, or the like, on the public streets of the city, is that the grantee is about the public's business. It is doing something the State deems useful for the public necessity or convenience. This is what differentiates the public utility which holds what may be called a special franchise from an ordinary business corporation which in common with all others is granted the privilege of operating in corporate form but does not have that special franchise of using State property for private gain to perform a public function.

We are not obliged, however, to argue by analogy the inability of the licensing theory as a touchstone for the exercise of congressional power under the 14th amendment. This novel theory was repudiated by the Court of Appeals for the Fourth Circuit in *Williams* v. *Howard Johnson Restaurant*, 268 F. 2d 845. The essence of plaintiff's argument in that case in the words of the court "is that the State licenses restaurants to serve the public and thereby is burdened with the positive duty to prohibit unjust discrimination in the use and enjoyment of the facilities."

In response to this argument the court said:

This argument fails to observe the important distinction between activities that are required by the State and those which are carried out by voluntary choice and without compulsion by the people of the State in accordance with their own desires and social practices. Unless these actions are performed in obedience to some positive provisions of State law they do not furnish a basis for the pending complaint. The license laws of Virginia do not fill the void.

This, Mr. Chairman, is the state of the law in connection with the 14th amendment. This examination does not purport to exhaust all the cases, nor, is it intended to suggest that the courts have not extended the "State action" requirement to the farthest reaches which logic will permit. Nevertheless, the courts have consistently held that section 1 of the 14th amendment is a prohibition against "State action." This is the status of the law today. What authority does it confer upon Congress to enact this measure? The answer is obviously none.

This is not privileged information, but a matter of public record. The decisions, extending from the Slaughter-House cases down to the Greenville case, decided only a few months ago, are accessible to any person desiring to read them. That the Attorney General is familiar with the contents of the Supreme Court reports was apparent in his testimony before the various committees which have held hearings on this proposal. He acknowledged, and this acknowledgement is likewise a matter of public record, that Congress is powerless under the 14th amendment to legislate with respect to individual discrimination; that Congress power to enforce that amendment's prohibitions by appropriate legislation is corrective only. "It is for this reason," and I quote the Attorney General, "that we rely primarily on the commerce clause." It is only too apparent, Mr. Chairman, that having recognized the difficulties involved in predicating the constitutional basis for such legislation solely upon the 14th amendment, the authors of the bill have sought to find a refuge for this legislation within the commerce clause of the Constitution.

COMMERCE CLAUSE

It is regrettable that the authors of this bill did not examine the Civil Rights cases, supra, more closely. Had they done so, it would have obviated the necessity of drafting the provisions contained in title II. In that case which, as we have seen, held unconstitutional the power of Congress to pass a law prohibiting discrimination in places of public accommodations, the Supreme Court declared that "no one will contend that the power to pass—this law—was contained in the Constitution before the adoption of the last three amendments." Although the Constitution has been amended since that decision, the power of Congress to regulate commerce among the States remains as provided in the original Constitution. Consequently, if the commerce power did not support this legislation in 1883, it will not do so today.

Although the congressional power to regulate interstate commerce is concededly broad, it does have reasonable limits. "This power," declared Chief Justice Marshall in the landmark case of *Gibbons* v. *Ogden*, 9 Wheat. 1, "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution." In fine, the authority of Congress over commerce among the States cannot be made a means of exercising powers not entrusted by the Constitution. *Pipe Lines* cases, 243 U.S. 548.

Further, the exercise of the commerce powers, the courts tell us, must rest upon "a close and substantial relation to interstate commerce in order to justify the Federal intervention for its protection." *Santa Cruz Fruit Packing Co.* v. *N.L.R.B.*, 203 U.S. 453.

They may not "be pushed to such an extreme as to destroy the distinction which the commerce clause itself establishes, between commerce 'among the several States' and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our Federal system." *N.L.R.B.* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1.

While it is not an easy matter to mark the line which separates congressional and State power over commerce, the course of decisions make it all too clear that the commerce clause was not intended to regulate the use of private property or to govern personal relations with the borders of a State. Nevertheless, this is exactly what is intended to be accomplished by the bill.

The gloss of interstate commerce which is set forth in the findings that precede the substantive parts of the bill cannot make interstate commerce that which is essentially intrastate commerce. The power of Congress to regulate commerce depends upon the existence of activities which burden or obstruct interstate or foreign commerce. The exercise of this power must have a real or substantial relation to some part of commerce. *Atlantic Coast Line R. Co.* v. *Riverside Mills*, 219 U.S. 186. Once such a relationship is determined, the acts which are productive of this result, are subject to Federal control. The test, in short, is the effect upon commerce.

There has been no showing that discriminatory practices in connection with so-called public accommodations have any effect on commerce. No one has demonstrated that the exercise of a proprietor's private property rights impedes the commerce in a particular commodity. Nor has it been shown that the exercise of such rights impedes human commerce, that is the interstate movement of persons. In other words, it has yet to be shown that enactment of this measure will facilitate or stimulate a substantial increase in the sale of catsup for example. An absurd example, perhaps, but this, and not so-called civil rights, is the subject of commerce. In the absence of such a showing, we are powerless to legislate.

Here again, however, we are not devoid of guides with respect to the constitutionality of the commerce power as a vehicle for enacting this legislation. This argument was squarely before the court in the case of *Williams* v. *Howard Johnson's Restaurant*, 268 F. 2d 845. With specific reference to certain business covered by this bill the court said:

> We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.

Let there be no mistake, if this proposed legislation should be sustained, there is no activity of our citizens which may not be controlled by Federal legislation, and no individual who may not be directly dealt with in relation to any and all of his affairs. The existence of such power would virtually nullify the remainder of the Constitution, for in truth, this is the ultimate power. The commerce clause would henceforth be relied upon to justify anything Congress might choose to do.

> It is safe to say that if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified. *Carter* v. *Carter Coal Co.*, 298 U.S. 238.

Given the gross unconstitutionality of titles I and II, Mr. Chairman, it would seem that the authors of this bill would have contented themselves and called it a day. But such is not the case. In title VI, we are asked to enact legislation which would provide for the withholding of Federal funds as a means of coercing the State to accelerate the process of desegregation. Although the language in the bill also refers to discrimination, I do not believe anyone knows what is meant by discrimination.

The bill would give the Federal agencies discretionary authority to withhold financial support in any program when discrimination is found, regardless of the provisions of existing law. This is a startling request, Mr. Chairman. The Congress is, in effect, being asked to abdicate its constitutional responsibility for the policy formulation by delegating unlimited discretion to the executive branch. This request is even more startling in light of the late President's statement that he did not have this power nor did he think any President should have it.

Mr. Chairman, this proposal is a brilliant illustration of how not to solve the racial problem. We are told on all sides that the problem of race relations is essentially a moral one. Assuming this to be true, is the method authorized by the bill a sound course of action to follow? Can a moral problem be solved by the exercise of vindictiveness or the exaction of harsh penalties? Obviously not. We have on countless occasions acted on a contrary premise, that is, that the promotion of the national welfare by the disbursement of Federal funds outranked in significance the eradication of segregation. Are we to abandon this policy judgment on the narrow grounds that we do not like what is going on inside the borders of a particular State? I submit this is the method least likely to effect a solution to the problem. If this is "an indestructible Union, composed of indestructible States," *Texas* v. *White* (7 Wall. 700), it is incumbent upon us to reject this proposal, the ultimate result of which portends the isolation of a State from its sisters. It is a testimony to the extreme emotionalism or shortsightedness, or both, of the authors of this proposal, that it would hurt more deeply those whom it seeks to assist.

We are asked in title VII of this bill to give legislative sanction to the existing Committee on Equal Employment Opportunity by establishing a new Federal agency—the Federal Equal Employment Opportunity Commission—consisting of 5 members appointed by the President, with its principal office in Washington and with regional offices located wherever the Commission "deems necessary," staffed by attorneys, officers, agents, and employees, unlimited in number, which the Commission deems necessary to carry on its assigned duties. This title would extend coverage under the bill to any employer "affecting" interstate commerce, with 25 or more employees. And what affects interstate commerce? The bill does not say, but in the Wickard case—*Wickard* v. *Filburn*, 317 U.S. 111, 215 (1942)—a farmer who produced only 239 bushels of wheat which never left his own farm was declared to be affecting interstate commerce. Title VII directs the President to prevent racial discrimination among contractors and subcontractors of agencies of the Federal Government, and under section 711(b) blanket and unlimited authority is given him to enforce the bill's provisions.

The Constitution does not confer upon the Federal Government such sweeping power to extend government control into virtually every corner of our social and economic structure.

I quote from the minority report on this bill:

> We do not believe that the American people as a whole, whether employers or employees, want to embark upon this new

adventure. We do not believe that they want to make this departure in the functional aspects of the American free enterprise system. We do not believe that they want the Federal Government, through its administrators, commissioners, investigators, lawyers, and judges, to assume this quality and quantity of control over their property and personal freedom to manage their own affairs. If this title of this legislation becomes a statute, we predict that it will be as bitterly resented and equally as abortive as was the 18th amendment, and what it will do to the political equilibrium, the social tranquillity, and the economic stability of the American society, no one can predict.

This, then, Mr. Chairman, is a substantial portion of the bill we are asked to pass. While the remaining titles raise many questions of policy and judgment, they do not portend the horrendous consequences of the titles which have been examined in this discussion—consequences which, as I indicated at the outset, transcend our personal feelings on racial matters.

A vote against this bill is not a vote against civil rights, for this bill is only nominally concerned with civil rights. A vote aganst this bill, is a vote for the Constitution. Our oath of office commits us to such a vote.

Mr. CELLER. Mr. Chairman, I wonder if we could arrange by unanimous consent the time at which all debate on this amendment will be concluded.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 45 minutes.

Mr. WAGGONNER. Mr. Chairman, I object.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all debate conclude in 1 hour.

Mr. SMITH of Virginia. Mr. Chairman, reserving the right to object, we have gotten along pretty well and we have gotten along pretty rapidly. However, this is the most important amendment, probably, in this bill. It is so complicated that I think we should have a lot of time on it. I would rather that the gentleman did not make that request yet. I had a few remarks that I wanted to make on it, also, and I might need a little more than 5 minutes. You know, I have not had a chance today to exercise my vocal cords.

Mr. CELLER. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. WHITTEN. Mr. Chairman, I rise in support of the amendment.

First, Mr. Chairman, I would like to compliment the gentleman from South Carolina [Mr. DORN], one of the great speakers here, who has made such a dramatic address to the Members of the Congress and called our attention to many terrible things which have happened under dictatorship throughout history. For my own part I would like to tell you that human nature has not changed. Even today power is used to serve political purposes, not in a dramatic appeal, but to call your attention to the fact that I mentioned earlier that the passage of a law is only the beginning. Some of you think this bill, if enacted, would solve or tend to solve present problems of riots, sit-ins, bloodshed, and so forth. To me this bill, if enacted, would really be the beginning of more and more trouble. Individuals will be carrying its terms or such part as they wish to carry out, in such sections as they wish. Those charged with enforcing this act would have the same frailties of other humans.

Mr. Chairman, the title before us would authorize the Federal Government to withhold funds from communities and from areas and from institutions, which would enable them to discriminate. There are those that say that is not too bad, in fact, most proponents seem to believe that if my section is the only one to be hit that would be all right.

Some seem to feel that my section does not deserve its fair share of Federal funds. I say to you, Mr. Chairman, that you should look at this as the instrument to work the will of the executive department upon the people of this Nation, and not merely a formula for distributing Federal funds.

Let me tell you what has already happened even without this law authorizing such action. In my good State of Mississippi for quite a long time—and listen to this—notwithstanding that the Congress has provided in the Community Facilities Act for national application, with the rights to all counties and all cities and all States to participate, for a period of many months there was not a single application approved in the State of Mississippi except two for the all Negro city of Mound Bayou, a segregated city.

May I say to you that there is not a man in Mississippi who would not have been proud to endorse the approval of those projects for this Negro city. But may I say to you that every other project throughout the State was held up except those two projects; and again may I say that we do not condemn approval of those two projects because that is a fine old Negro community—dating back for many years, it is a matter of their choice that they are an all Negro city. Mr. Chairman, it was only after an investigation by the Appropriations Committee that this situation was changed and in the period when all projects were being held up, representatives of the agency advised me they were holding such applications up because, "We had orders from down on Pennsylvania Avenue."

Now, let me tell you another case of executive pressure as would be authorized by this bill. Under the accelerated public works program—and I had no connection with this project—the administration approved an accelerated public works project in my good State and sent a telegram to the applicant approving it. They had their representative on the plane to go down there and make arrangements with the applicant in person. Then, on the same day, when the two Senators from my good State voted against an expansion of the accelerated public works program, that telegram was withdrawn, the man was taken off the plane and the project was turned down.

Mr. LENNON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and forty Members are present, a quorum. The gentleman from Mississippi [Mr. WHITTEN] will proceed.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Chairman, I repeat that that is the basic thing that our Republican friends on the left and my Democratic friends on the right are overlooking. We do not in this bill set up a new formula for distributing Federal funds, but place ever greater power in the executive department to pressure Congressmen, communities, and so forth. Enforcement will not be handled by men who are beyond prejudice, but will be handled by people appointed to a political office by a politician. The law, since time immemorial, has been in the hands of those who held positions of power and throughout time there have been those who misused that power, just as I believe it was misused in the cases cited. Whatever we may say, we live in a political world. I repeat, to pass this measure, and particularly this section in the face of the circumstances that I have described to you—where the Community Facilities Act of national application providing benefits on a fair basis for every county and State throughout the Nation would be to invite the most dictatorial and destructive action possible—and that is, if your Senator or Congressman does not vote like we say or if you do not do as we believe proper, you will be left out of Federal programs, even though your section paid part of the taxes to pay for it.

In my years in Congress I have seen much of that. Just now, I am glad to say, the Community Facilities Act and the accelerated public works programs are being handled properly.

And, Mr. Chairman, may I say I do not believe the late President Kennedy or President Johnson would ever resort to such unfair discrimination. Unfortunately such decisions are made below them.

May I say again, when this bill becomes law, who knows who will be in the saddle in the future?

In other countries and throughout history, power granted has always been used.

I do not know of any man big enough to resist permanently the power this bill would grant.

If you give to any man the power you would give under this bill you are saying to him that here it is, here is what the law provides. I am strongly in favor of the amendment which would eliminate this section which would put in the hands of certain people and powers in the executive department to say: "Do as I tell you to do, or we will turn your application down."

That is what has happened in the past. In view of the situation I have described to you I have prepared an amendment to prohibit discrimination by the Government.

Let me read my proposed amendment.

(A) Nor shall any community, county, parish, State, nor section of the United States, on the ground of the race, color, or national origin of some of its citizens, nor because of the actions of some of the citizens of such community, county, parish, State, or section of the United States, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity providing Federal financial assistance by any Federal department or agency.

What I am trying to say to you is, not only do you give this power to the executive but you do it in the face of a known record where Federal agencies have been guilty of discriminating against areas and people. There is far more reason here today to write language saying that Federal agencies and departments shall not discriminate against sections or communities of the country than there is for the language in this bill which says the people in an area shall be deprived of everything because a few people may not do what they are told to do from Washington.

The gentleman from South Carolina recited many instances in history, all of which support the premise that whenever any people get to where they are so disturbed and would like finally to surrender their power to a central government to look after them, the end result has been the same. A dictator uses all the powers he gets when his interest is great enough. History has moved on but human nature has not. There has never been a dictator who ever turned back to the people a single power that got into his hands. There has never been a country that surrendered this power to a dictator who sooner or later was not a ruthless one, such as Stalin, Hitler, Khrushchev, or Castro. No matter how much feeling you may have for a particular Attorney General, power once surrendered to the executive department is there for the next man, and we could go down the road that our friend from South Carolina pointed out. We can easily see the day when this power of the dictator will be used against many minorities in this country, and I think particularly against the section I have the honor to represent for we do not have enough votes to prevent such action against us.

Keep in mind that you may be looking south, but when you write this act it applies all over the country. The Government might not move against you for the same things they move against us for. However, the power is available to any man from the White House down to the lowest man in the executive department to withhold this, not on a fair basis, but in order to make Members of Congress of the United States vote as they are told to vote. We have evidence it has been so used.

I hope you will strike out this whole section. If not, you should amend to prevent discrimination by Federal departments and agencies.

Mr. ROBERTS of Alabama. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in this particular type of bill I have always tried to be sure that my remarks give off light instead of heat.

I would like to compliment the distinguished Chairman of this Committee and the ranking minority members and all members of the Judiciary Committee, and members of the Rules Committee and others who have spoken on this bill, on the tenor of their remarks. As I have seen it, it has been a good debate, except for the fact that we from the South where the gun has been pointed have not been able to ignore the fact that there is a majority here today with the votes. I suppose my chances of success would be similar to that of the taxpayer who was before the court of tax appeals, and he said, "As God is my judge, I do not owe the taxes." The judge said, "He is not, I am, and you do." So that what I have to say will be very brief.

As my colleagues, the gentlemen from Alabama [Mr. RAINS and Mr. ELLIOTT], so well pointed out, in their respective fields of housing and education, this title before us today is going to punish a lot of people who have had nothing to do with the making of the policy that is sought to be changed in this title. It so happens that under my distinguished chairman, the gentleman from Arkansas, as chairman of the Subcommittee on Public Health and Safety, I have had the privilege of helping him handle what I think are many bills important to the health, welfare, and well-being of this country. I refer to the Hill-Burton Act, Health Facilities Act, Child Health Institute Act, Medical Education Assistance Act, Mental Health and Mental Retardation Act.

I say that when any legislation such as this title would get down and strike at children in school, that is pretty bad; but when you seek by this title to cut off funds that are going in many sections of this country to mentally retarded children, blind and deaf children, handicapped children, emotionally disturbed children, crippled and physically defective children, that is almost unthinkable. Under this mentally retarded program you are undoubtedly going to cut off from both black and white the benefits of a new piece of legislation by title 6 that has never been able to pass this body, even though vigorously pursued. What you are trying to do with this is to do with a shotgun what you have never been able to do with a rifle. When Congress can properly consider these individual programs, they would refuse to write and accept such nondiscriminatory proposals and have repeatedly refused to write into the law of this land, such as the Hill-Burton program, this kind of insidious, iniquitous provision.

Mr. TUCK. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS of Alabama. I yield to the gentleman from Virginia.

Mr. TUCK. The principle of this is not unlike the same principle used by Castro when he cut the water off at the U.S. Naval and Marine base at Guantanamo yesterday, is it?

Mr. ROBERTS of Alabama. That is about the same situation, because it is a spite situation.

Edmund Burke, the distinguished British statesman, said you cannot indict all the people. He was speaking of the revolutionary effort in this country which finally was successful and gave birth to the greatest republic on the face of this earth.

You may think you are indicting the South. You may think that by denying these children and denying these underprivileged people who have no power of forming the policy to which you direct this legislation that you are leveling out this whole country and trying to make every section of it like every other section. But if you look at the facts you will find that what you call discrimination exists to a greater degree, in my opinion, in areas like New York, areas like Illinois, and many of the other States, than in the South.

Mr. FLYNT. Mr. Chairman, I move to strike out the last word and rise in support of the amendment offered by the gentleman from North Carolina [Mr. WHITENER].

Mr. Chairman, I support the amendment that has been offered by the gentleman from North Carolina [Mr. WHITENER], and I urge that it be adopted.

If only one title of the bill now under consideration could be stricken from this bill, in my judgment, it is title VI.

The authority given in title VI is one which would place dictatorial power into the hands of a nameless and faceless employee of any of the many Federal agencies within our Government charged with the administration of programs which benefit every section of the United States.

Mr. HUDDLESTON. Mr. Chairman, the gentleman from Georgia is making a very fine statement and it seems to me he is entitled to be heard by so many of these Members of the House who are so all-fired anxious to dispose of this bill. Therefore, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting]. One hundred and thirteen Members are present, a quorum.

The gentleman from Georgia is recognized.

Mr. FLYNT. Mr. Chairman, title VI would place dictatorial power into the hands of a nameless and faceless employee of the many Federal agencies in our Government charged with the administration of programs which benefit every section of the United States.

The language in title VI is ineptly drawn. The proponents of this legislation disagree on what it means.

After carefully reading all three sections of title VI—section 601, section 602 and section 603—I defy any person to analyze and define the power which this title contains.

Among the many powers that are contained in title VI there is the power of someone in the Housing and Home Finance Agency to deny any of the rights conferred under many of our housing acts as amended, to an entire subdivision, to an entire community or, perhaps, to an entire State on the unsubstantiated complaints of someone that he had been discriminated against

in the administration of one section of the Housing Act.

He would not have to establish that he had been discriminated against beyond reasonable doubt or by a preponderance of the evidence. It is highly possible, Mr. Chairman, that it would be sufficient to carry out the terms of title VI for such person to state, without any further evidence and without any corroboration of any kind, that he had been denied a loan under the provisions of one of the housing acts because of his race, color, or national origin.

For example, he might be denied a loan because of a bad credit record. Under title VI he could claim that it was because of his race, color, or national origin, and either have his loan approved or an employee of the agency could arbitrarily withhold approval of all other loan applications in such subdivision or community.

The fact that the evidence might be all to the contrary, except for his statement, would have no bearing whatsoever on the final determination and adjudication of the case, because the power is to be placed—and it is very indefinite as to the person or agency in whom the power is to be placed—in a nameless and faceless individual, to concur in the complaint which has been made, and thereby to deny all the rights, privileges and benefits of the particular housing act affected to all persons who might be similarly situated.

One other example of this would be in the administration of the provisions of the Medical Education Assistance Act, which the Congress of the United States recently passed. An applicant for admission into a recognized medical college might complain to the appropriate Federal agency that he had been denied admission to this particular medical college because of his race, color, or national origin.

The fact that he might have been denied admission to this particular medical college because his grades did not come up to the standards which that medical college required would be of no consequence if the administrative officer before whom he took his complaint took the position that grades had nothing to do with it and that he had to be admitted regardless of his grades.

(By unanimous consent, Mr. FLYNT was given permission to proceed for 3 additional minutes.)

Mr. FLYNT. Mr. Chairman, we could discuss in detail and with accuracy for the remainder of today the various applications of administrative tyranny which would be vested in administrative agencies and executive departments by the provisions of this title.

Mr. Chairman, the late President of the United States, John F. Kennedy, stated in clear language that he did not approve of the language contained in title VI. He said that he did not want the power and the authority which that language would confer. The language of title VI would confer power that no good man would want and that no bad man should have.

The language in title VI would confer upon an administrative employee the power and the right and the authority to thwart the will of Congress and the will of the American people. The power to be granted under provisions of title VI would be subject to perhaps the greatest misuse and abuse of power of any of the many bad sections of H.R. 7152.

Mr. Chairman, if any real discrimination is allowed by any agency in the administering of any of the provisions of the many acts which would be affected by this title, in the name of good judgment, logic, and reason, I suggest that certain limitations and prohibitions should be added by appropriate amendment in each particular instance affecting each particular act.

Mr. Chairman, the approach contained in title VI is one of a shotgun approach, as it has been described. It is a provision which could destroy the beneficial administration of many of these acts. It is one which could come back to haunt many of our colleagues who will support this title and will vote in favor of this bill on final passage. It will indeed be a flimsy excuse when someone might try to explain his actions by saying, "I did not know the gun was loaded." The gun is loaded—this title VI is loaded, and it is aimed at the heart of America.

Mr. Chairman, I do not believe that the power to administer broad punitive action, such as contemplated in this title, should be conferred upon any individual or agency.

If such power is to be conferred on anyone, the act should provide that the application for injunction or other order should be directed to the appropriate district court in the first instance.

The provision contained in section 603 providing for judicial review is meaningless. The Administrative Procedure Act referred to in section 603 would permit the agency action be affirmed with no evidence other than the unsworn statement of a complainant—regardless of the quantity or quality of the evidence to the contrary.

I urge that the amendment offered by the gentleman from North Carolina [Mr. WHITENER] be adopted.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. FLYNT] has again expired.

Mr. MEADER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time for the purpose of announcing to the Committee that at the appropriate time I will offer an amendment to strike all of title VI and insert substitute language for that title.

For some hours now the text of this amendment and a one-page explanatory statement has been available at the various desks in the Chamber.

I have decided to make one change in the amendment as it appears in mimeographed form before offering it. I will strike out the last three lines in section 602 of my amendment and strike out the word "but" on the fourth line from the end of section 602 of my amendment, and insert a period.

Basically the nature of this substitute is to carry out the same purposes as title VI, but to utilize the law of contracts in doing so.

Before any recipient of Federal financial assistance would receive any money, be would be obliged to assume a legally enforcible undertaking that he would not discriminate among the beneficiaries of the program and then that undertaking would be enforced in the same way that any contractual undertaking can be enforced between private parties to contracts. Striking the last three lines would make available to either party any proceedings in equity, specific performance or restraining orders, as would be appropriate in the case.

The merit of this approach rather than the approach of title VI of the bill is, one, its flexibility. That is because it would require the recipient and the agency in all of these different programs who are familiar with the details and operation of the program to spell out in detail in the document evidencing the grant, contract, or loan precisely what the recipient would or would not do to carry out his obligation not to discriminate in the use of the funds.

The second feature is the remedy. Instead of being an arbitrary decision of an administrator, which has only limited review under section 10 of the Administrative Procedures Act, my procedure would be equal for both sides to go into court de novo and have their full day in court utilizing the vast body of contract law. I think there is a great deal of merit in this method of solving a very complex and difficult problem of dealing with withholding Federal financial assistance in such a variety and multitude of programs.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from California [Mr. CORMAN].

Mr. CORMAN. I want to ask if the gentleman will repeat his amendment again. I want to get it on our copy.

Mr. MEADER. Yes. Do you have a copy before you?

Mr. CORMAN. Yes, sir. I do now.

Mr. MEADER. If you will direct your attention to section 602, in the fourth line from the bottom, after the word "undertaking" I would insert a period and strike the word "but" and the remainder of that section.

Mr. CORMAN. Thank you, sir.

Mr. MEADER. Mr. Chairman, I yield back the balance of my time.

Mr. RYAN of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and proceed for 5 minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Chairman, title VI which is before us would strike down racial discrimination and segregation in federally assisted programs. This goes to the heart of the moral issue confronting the Nation and confronting this Congress.

In a very historic speech last June 11 President Kennedy asked the Congress,

and the Nation, to make a full commitment "to the proposition that race has no place in American life or law." Title VI makes clear that commitment. The Federal Government must cease to underwrite segregation. It is only simple justice. It is indefensible to use Federal funds to perpetuate segregation in the Hill-Burton hospital construction program, the impacted areas school program, and other federally assisted programs.

Mr. Chairman, earlier in the debate I was disturbed when the very distinguished gentleman from Alabama, the chairman of the Subcommittee on Housing of the Committee on Banking and Currency, suggested that the passage of this title might result in a sitdown strike on the part of those Members of Congress who serve on the Appropriations Committee. It is difficult to believe that appropriations for urban renewal, for public housing, for college dormitories and other public needs would not be voted because Congress had determined finally that they should not be used to perpetuate segregation.

However, if that is the case, let us meet the issue head on, and carry the fight to the country. The people of America will not stand for it.

This title is essential to the bill. It empowers the administrator to strike at the very root of the problem which has been raised numerous times before this body when antidiscrimination and antisegregation amendments have been offered.

Since my election to Congress I have fought against using Federal funds for programs in which discrimination is practiced. I have introduced and supported antidiscrimination amendments to authorization and appropriation bills. When the Housing Act of 1961 was before the House, I was the only Member on my side of the aisle to vote for an antidiscrimination amendment. I have supported an amendment to the Health Professions Education Assistance Act of 1963 to prevent funds from being used for segregated facilities. I introduced, and filed a discharge petition for H.R. 5741 which provides that no Federal financing or other assistance may be furnished in connection with any program or activity which is segregated or in which individuals are discriminated against on the ground of their race, religion, color, ancestry, or national origin. Before the administration's civil rights bill was introduced, I urged the Attorney General to recommend a provision to bar Federal funds for segregated programs.

We who have supported those amendments have constantly been told that there would come a time when we could consider this issue as a distinct matter, separate and apart from the legislation then pending before the House. We have that opportunity in this bill today, and we should seize it. The policy is clearly expressed in section 601:

> No person * * * shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This title is not mandatory. I think it should be. For those who are so alarmed about the discretion placed in the hands of the Federal administrators and department heads, I would encourage them to support an amendment to make mandatory the denial of funds for segregated programs. Then they would not have to worry about the use of discretion.

Many of the opponents of this measure have tried to confuse and distract us by talking about the possibility that an individual's benefits could be cut off, such as veterans benefits, social security benefits, unemployment benefits. No such action is envisioned by title VI. If we turn to the hearings, part IV, at page 2773, it is clear from the letter of the Deputy Attorney General, Mr. Katzenbach, to Chairman CELLER that this is not intended. I should like to quote from that. It says:

> 2. A number of programs administered by Federal agencies involve direct payments to individuals possessing a certain status. Some such programs may involve compensation for services rendered, or for injuries sustained, such as military retirement pay and veterans' compensation for service-connected disability, and perhaps should not be described as assistance programs; others, such as veterans' pensions and old-age, survivors, and disability benefits under title II of the Social Security Act, might be considered to involve financial assistance by way of grant. But to the extent that there is financial assistance in either type of program, the assistance is to an individual and not to a "program or activity" as required by title VI. In any event, title VI would not substantially affect such benefits, since these payments are presently made on a nondiscriminatory basis, and since discrimination in connection with them is precluded by the fifth amendment to the Constitution, even in the relatively few instances in which they are not wholly federally administered. Accordingly, such programs are omitted from the list. For similar reasons, programs involving direct Federal furnishings of services, such as medical care at federally owned hospitals, are omitted.

That statement by the Deputy Attorney General should dispel a lot of the confusion which has been created. The purpose is clear—to prevent discrimination among the beneficiaries of Federal programs.

Mr. Chairman, the harsh facts are that constitutionally protected rights have been disregarded in the administration of Federal programs.

For example, the Government has perpetuated school segregation through the allocation of school maintenance and construction funds under the impacted areas program. In fiscal year 1962, the Federal Government allocated $297,169,905 for school maintenance and construction under the impacted areas program. Of this total, 36 percent, or $106,129,107, was allocated to Southern and border States. In fiscal year 1963, $315,110,323 was allocated for school maintenance and construction under the impacted areas program. Of this total, 33 percent, or $106,092,763, was allocated to Southern and border States.

A subcommittee of the House Education and Labor Committee in 1962 prepared a statistical sample of school districts in Southern and border States which had received Federal funds for school maintenance and operation under this program in fiscal year 1961. The study shows that 63.6 percent of the funds allocated to this area went to segregated school districts.

A Civil Rights Commission study shows that, for the 1962–63 school year, totally segregated schools in military base impacted areas in Alabama, Georgia, South Carolina, and Mississippi received $16,592,733.

On March 30, 1962, the Secretary of the Department of Health, Education, and Welfare stated:

> Beginning in September 1963, we will exercise sound discretion, take appropriate steps as set forth in the law with respect to those children still attending segregated schools who by law are entitled to suitable education.

However, the Secretary determined that he had discretion only with respect to children living on Federal property. In eight situations where only segregated schools were available to children living on military bases, the Government has built schools—three schools in Alabama, two in South Carolina, two in Georgia, and one in Louisiana. However, this ruling only applies to the 285,863 children of Federal employees living on Federal property and does not apply to the 1,555,154 children living off Federal-owned property.

The 1963 Report of the Civil Rights Commission points out the limited effectiveness of this ruling:

> Up to September 1963, however, the HEW ruling has affected only 26 of the 242 southern school districts where children reside on Federal property and attend schools in the community. And for the most part, the ruling will redound only to the benefit of children living on base. They constitute only 10 percent of all military dependents in the South.

Mr. Chairman, in Alabama, Florida, Georgia, Louisiana, South Carolina, Mississippi, North Carolina, and Virginia segregated school districts are still receiving Federal assistance under the impacted areas program.

The Hill-Burton hospital construction program is another example of a program in which Federal funds have been used to underwrite segregation.

The Hill-Burton Act provides that Federal funds can be allocated "in cases where separate hospital facilities are provided for separate population groups, if the plan makes equitable provisions on the basis of need for facilities and services of like quality for each such group." In addition to "separate but equal" hospitals, Federal funds have gone to hospitals within which patients are segregated on the basis of race.

The Civil Rights Commission 1963 Report states:

> The Public Health Service has stated that, from the inception of the Hill-Burton program in 1946 until December 31, 1962, grants have been made to aid in the construction or remodeling of 89 medical facilities intended for the exclusive use of either white or Negro persons. The Federal contribution to these projects totals $36,775,994; of this amount, Federal contribution to the 13 projects intended for the use of Negroes, is $4,080,308.

According to the Department of Health, Education, and Welfare, as of June 1963, 102 segregated medical facilities have been approved out of 6,810 approved projects. In addition to the totally segregated hospitals, there are other hospitals which admit Negro patients but segregate them within the hospital. For instance, one hospital in Georgia provided only 12 beds for Negro patients which were located in a segregated basement. Many southern hospitals refuse to hire Negroes, or to permit Negro doctors to practice medicine.

The Department of Health, Education, and Welfare has now discontinued grants to "separate but equal" hospitals. But, according to the Civil Rights Commission, hospitals, in which patients are segregated according to race, are still receiving assistance.

The denial of the best available medical care because of a patient's color is inconsistent with the most basic democratic principles. By passing title VI Congress will make clear its intention that this practice cease.

The Federal Government has also supported libraries which discriminate. The 1961 Civil Rights Commission report states that only 24 percent of the libraries in the 11 Southern States were integrated. In 1960–61 under the Library Services Act, these States received a total of $2,302,882, or approximately 28 percent of the total $7,500,000 allotted to all the States. For fiscal year 1963, $2.2 million of the $7.4 million Library Services Act appropriations was obligated to the 11 Southern States.

In the summer of 1963, the American Library Association issued a report entitled "Access to Public Libraries" in which it reported that 16 Southern States deny Negroes access to libraries. On July 9, 1963, the Library Services Branch of the Office of Education issued a memo which stated that Federal funds would no longer be available for segregated facilities or facilities in which discrimination was practiced. As of January 1964, investigators from the Library Services Division of the Office of Education have visited North and South Carolina to seek compliance.

After investigating the training programs under the Area Redevelopment Act and the Manpower Development and Training Act, the Civil Rights Commission in 1963 found:

> In no Southern State did the proportion of Negro Manpower Development and Training Act trainees equal or approach the State's 1960 urban nonwhite unemployment rate. While the proportion of Negroes in the southern Area Redevelopment Act programs was slightly higher than in the Manpower Development and Training Act, more than 90 percent of the Area Redevelopment Act Negro trainees were in the State of Arkansas. Nearly 85 percent of all the Area Redevelopment Negro trainees were enrolled in agricultural courses.

The Commission in 1963 conducted field investigations of the Area Redevelopment Act and the Manpower Development and Training Act programs in Alabama, Arkansas, North Carolina, and Tennessee. Additional data were also received from South Carolina and Mississippi. The Civil Rights Commission 1963 report states:

> Negroes in North Carolina and Tennessee were trained on a desegregated basis. All of Alabama's and Mississippi's training programs were segregated and Negroes were excluded from some Manpower Development and Training Act programs. Little Rock's Manpower Development and Training Act courses were desegregated. In South Carolina, this Commission's State advisory committee reported that "there is a large measure of discrimination against Negroes." The reasonable expectation of employment provision has been strictly interpreted against Negroes, the committee stated. It was also stated that Negroes were excluded from 9 of 12 available courses because State law still forbids desegregated classes in public schools.

The Department of Labor has reported that since March 27, 1963, the approval of the Manpower Development and Training Act and the Area Redevelopment Act programs has been contingent upon assurances from the States that training programs would be conducted without discrimination or segregation.

A particularly heinous instance of discrimination in the administration of a federally supported program came to my attention last March when Leflore County in Mississippi discontinued the distribution of surplus food. During the winter months of the preceding year the county had distributed food which it has received free from the Department of Agriculture to 26,000 needy persons, over 90 percent of whom were Negroes. In that county the average income for Negroes is approximately $300 per year. The decision not to participate in the surplus food program coincided with a Negro voter registration drive in Greenwood, Miss. I immediately contacted the Secretary of Agriculture. After much pressure by him and others, the program was reinstated.

Mr. Chairman, it is apparent that Federal funds have been used to underwrite segregation. Although some administrators have acted to eliminate it, discrimination persists in some of the programs. Congressional disapproval is long overdue. If we believe in the Constitution and the inherent dignity of man, let us now in 1964—more than 100 years too late—make it clear that this affront to our democratic principles will no longer be tolerated by Congress.

Mr. WELTNER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, a few weeks ago the President of the United States issued a call to arms in the war against poverty. And today the administration has assigned as a priority measure the formulation of a program that will attack on many fronts this greatest of our ills. Our section of the Nation, the South, has a great deal to gain from the successful conclusion of a war on poverty. We have a great deal to lose if that effort fails. The South, all of its people and all of its races, will profit greatly from the success of this effort, and I applaud the administration for the determination it has shown.

Now, that war will necessarily involve substantial Federal resources. It cannot be won without it. Yet this title, title VI, would deprive us of the very weapons with which that war can be waged.

What will be the outcome if title VI is enacted? There may be a war on western poverty, Mr. Chairman. There may be a war on eastern poverty. Possibly we will see a war on northern poverty. But in the South there will be no war on poverty. In the South, title VI will make war on the poverty stricken.

I urge that this amendment be adopted.

Mr. ROSENTHAL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time really to stall for 5 minutes. The fact of the matter is that after the gentleman from South Carolina and the gentleman from Florida spoke so eloquently I finally conceded a well-known fact, that the opponents of this bill on my side of the aisle really have all the oratorical skill and class in this body. They have all the great ability to make speeches, and I admire them for it, and I wish I could do the same thing. I have always found it difficult. I do not even know how to punch the air with my hands when I talk. I think this is one practice they use to make their speeches so forceful and so eloquent. What I did before I thought I would be recognized, a few speakers ago, I went outside and practiced making this speech first with my right hand, then with my left hand. Unfortunately, my eyesight is not quite as good as my intentions, and I struck one of the proponents of the bill right in the middle of his face. He is outside now with a bloody nose. It will take about 20 minutes for him to recover. I do not want to lose his vote on this next amendment and so I thought it would be wise if I could take this time and perhaps give him an opportunity to recoup.

There is no question in my mind, that our brethren on this side of the aisle, who are in opposition to this bill, really have the oratorical skill and class and all the good things that a legislator should have. Unfortunately, they do not have the facts and they do not have the issue.

The bogeyman issue that they raise in this body is fear of Federal control. Whatever their motivations or reasons might be, the single argument they have offered in opposition to the bill is a fear of the Federal Government and fear of Federal control.

The fact of the matter, and I rely on the words of a very famous American and suggest to them that they really have nothing to fear but fear itself.

Whether they admit it or not what they fear is not Federal control but fear of change—fear of change of an existing situation that is bringing poverty and is bringing a lack of respect for government and is bringing a failure of American democracy to a large number of our American citizens.

The fact of the matter is—if government, whether it be Federal, State, or municipal, is used to obstruct the freedoms of an individual citizen, then that government must fail whether it be this year or the following year or some other time in this generation.

Mr. Chairman, the one thing we must do to preserve this Republic is to recognize our responsibilities and obligations and go forward to give this Federal Government powers that it needs to meet its responsibility to meet the challenge of these times.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOWNING. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I think my colleagues and friends on this floor will have to agree that I have not usurped this microphone too much during my terms in the Congress.

I cannot, however, sit and stem back my deep personal resentment against the philosophy of the harsh implications which are contained in title VI of this bill.

I cannot bring myself to believe that there are men and women in this great body of the Congress who harbor such ill feeling against the South that they would put in this bill provisions which spell out recrimination in its worst form.

I cannot believe the democratic theory of government ever contemplated the use of recriminatory threats to effectuate civil legislation.

I cannot believe that you would deny needed Federal assistance to many because of the noncompliance of a few.

You and I have sat here day after day and have seen dozens of amendments systematically and automatically voted down by a determined and sincere majority.

But you will never get me to believe that your majority is a ruthless majority, nor a vindictive majority, nor a heartless majority.

If I understand title VI correctly—and I think I do, it basically provides for a cutoff of Federal funds if segregation persists—in whole or in part: Federal funds created in part by the very area suffering the cutoff and despite the fact that the locality itself may have been trying conscientiously to comply with the intent of this law; and the cutoff of Federal funds which would be for the benefit of all the taxpaying citizens in that area both black and white.

The ultimate result of title VI would be the retroactive amendment of every Federal statute which allocates Federal funds. It could—and probably would reach down into such fine institutions as the FHA, the GI program, the school construction programs, the school lunch program, and countless other humanitarian programs. If carried out, it could affect every element of our society, every phase of our commerce, and every color of our citizenry.

And remember too, when we passed these programs, we more or less told our people that they could rely on the law we passed—that there were no strings attached other than those stipulated in the law itself and that there was no hidden "hooker" up our sleeve.

Despite your sincere feelings about the protection of civil rights of all our people and despite the fact that perhaps the majority of the people in this country may favor this legislation, if you pass title VI you are going to destroy the trust and confidence that was given to you by a few people who believed that there were no strings attached.

Why did you not tell us when these bills were passed that you were later going to use them as a common threat? That would have been the fair way, and we could have voted accordingly. And in fairness, the people who drafted, debated, and passed those bills did not ever intend that they were to be used this way. And down in the hearts of my colleagues you do not want it used this way now.

The past President did not think this power wise. He said so publicly. The Attorney General did not want this broad a power.

The Congress itself in the past has repeatedly—on six different occasions—defeated amendments to pending housing acts which would grant the President this authority.

And the chairman of the Judiciary Committee, a man who wears lightly many years of distinguished public service and a man for whom I have the greatest personal respect—I have seen him stand up here for seven long weary days valiantly and successfully coping with the greatest onslaught of legislative questions that we have ever seen and he has lost neither his humor or his vigor.

I cannot believe that this great man is too eager about this title.

If you will read the record of the hearings in this cause you can feel the concern of those who now advocate it. On page 1787, our chairman showed concern when he asked Mr. George Meany, president of the AFL–CIO the following question in regard to the Federal fund cutoff "might that not, in some instances, hurt the very people—the recipients of deserved compensation—that you want to help and that might cause a disservice to Negroes on Federal installations."

And then our good and able minority leader for this bill, the genial gentleman from Ohio [Mr. McCULLOCH], brought out in the hearings that he well remembered the misery that was caused in the thirties when the Federal Government arbitrarily withheld over a million dollars in Federal funds for a program to help the needy. Down in his heart he must feel concern over the effect of this title.

I would like to conclude with this. My friends, you have a strong civil rights bill without this title ever appearing on it. Please do not take your majority to pass a title which would be retroactive in effect and harmful in its result.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent (at the request of Mr. HUDDLESTON) Mr. DOWNING was given permission to proceed for 5 additional minutes.)

Mr. DOWNING. I thank the gentleman from Alabama.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from New Jersey.

Mr. RODINO. I wish to inquire how many other Members are interested in speaking on the amendment, so that we may set a time limit for this particular amendment.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Alabama.

Mr. HUDDLESTON. I ask the gentleman if he does not get the impression, from talking to some of our colleagues in the House, that a number of our colleagues intend to vote for this legislation with the idea that the Members in the other body will "bail them out" and that the minority groups will blame the southerners in the other body for it.

Mr. DOWNING. I have heard that is the case, but I am only interested in getting title VI out of the bill. It should not be in the bill. I hope Members will support the amendment of the gentleman from North Carolina.

Mr. ROGERS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize now we are probably engaging in activities that are futile, but I think that we ought to stop, look, and think before we go any further. What we are dealing with here is a bill of attainder. Let me show you what the Constitution of the United States says about a bill of attainder. This is section 9, clause 3:

> No bill of attainder or ex post facto law shall be passed.

What is the definition of a bill of attainder? A bill of attainder has been defined many times by the Court of our land and here is one accepted definition:

> A bill of attainder is a legislative act which inflicts punishment without judicial trial and includes any legislative act which takes away the life, liberty, or property of a particular named or easily ascertainable person or group of persons because the legislature thinks them guilty of conduct which deserves punishment.

Now, I hope the Members of this House of Representatives will stop and think about this for just a minute, because if you do, you will vote for this amendment and strike out this provision because it is unconstitutional. I have heard general statements made about the unconstitutionality of portions of this section. I am specifying for you exactly where this section is unconstitutional. In the early days it was held that a bill of attainder was a law that worked a corruption of the blood. The definitions as they come down through jurisprudence have reached the definition that I read you just a moment ago. Let me show you how much further this bill goes than that.

This bill not only is in violation of the Constitution of the United States because the legislator does not have the right to do this, but this Congress is attempting to delegate powers to the heads of departments and agencies. Powers that the Constitution denies to the Congress, and hence prohibits to any agency of Government.

Read the language of the bill. Here is what it says:

> Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or

to continue assistance under such program or activity to any recipient as to whom there has been an express finding of a failure to comply with such requirement, or (2) by any other means authorized by law—

Now listen to this—

Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

That simply means this, that the head of a Federal department or agency has the power under this act that the Congress of the United States under the Constitution of the United States does not have. If we are going to proceed blindly to pass an act because of some emotional trend, I think it would do us well to stop and think this over. I have watched this House in action for many years and I have seen movement go along here and they say, "Strike down every amendment." That is the word that goes out. And many Members—and I am not reflecting on them—many Members do not have the time to acquaint themselves with what is going on, so they simply follow the leaders and vote against all amendments. To me that is not responsible legislating, and when you come in here with a bill of attainder that is prohibited by the Constitution of the United States, it seems to me that it is high time that we slow down just a little bit and try to proceed on a well-balanced, a reasonable path, and not do violence to the powers entrusted to us.

This section should be stricken. I urge you to vote for the amendment.

Mr. O'HARA of Illinois. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, with my colleagues I have been enjoying this great feast of oratory. This is really an historic occasion. On the last lonesome fringe of a lost battlefield our colleagues from the South are standing bravely and eloquently. Mr. Chairman, I have been moved by their eloquence. Among my dear friends was one of the greatest Governors Virginia, or any other State ever had, and as fine an orator as ever moved an audience to tears and noble deeds, and when Governor Tuck concluded his remarks, although I did not agree with him, his eloquence had moved me so that I found myself on my feet clapping my hands in appreciation of a performance in pure oratory.

But, Mr. Chairman, what is this all about? Is there any serious objection to the statement in this bill of the position of our country, of the United States, that no person shall on the ground of race, color, or national origin be excluded from participation in or be denied the privileges of or be subjected to discrimination under any program or activity receiving Federal financial assistance?

Does anyone disagree with that? Is not every American entitled to his full share of the benefits that accrue from the expenditure of public funds? If it be in social progress or in education, no matter what the field, any American should not be excluded because of the color of his skin or the country of his origin.

Mr. Chairman, I think I know the South. No one has greater love for the South than have I. Many a time I have boasted that once I was a Virginian, as Illinois once was in fact a territory of Virginia. We owe a great deal to the South. It has given us great principles of democracy, great Democratic leaders, a pioneer leadership in the attainment of worthy goals.

But, Mr. Chairman, the status quo has changed. So has it always been. Yesterday is gone. We have a feeling of deep affection for our friends from the South, and we want them as comrades and fellow workers in the adventures and the strivings of the today.

The yesterdays are gone, with all of their mistakes, with all of their crudities and cruelties, yes, with all of their aspirations and their blessings. Let us together, the North and the South, the East and the West forget the yesterdays.

Come with us, you from the South, into the sunshine of the today in which we live. Together we have so much to do in the years ahead and our mission of service to ourselves and mankind, we cannot afford to weaken by the taint of discrimination in any form.

Mr. POFF. Mr. Chairman, I move to strike out the requisite number of words.

It is obvious to those on the floor that members of the committee on both sides have deferred seeking recognition in order that our colleagues who are not members of the committee might have an opportunity to speak on this important amendment. It would appear that only a few remaining speakers who are not members of the committee are now seeking recognition and I would hope we might move as promptly as possible to a vote on the pending amendment in order that other amendments which undoubtedly will be offered can be maturely considered.

I take this time to propound questions to both sides of the aisle which I think might be helpful in illustrating the ramifications of this title. I am concerned first of all about the connection, if there is a connection, between titles VI and VII. Some people maintain, and I am one who does, that there is a definite connection between the two titles. More specifically, I contend that discrimination in employment under any program which receives financial assistance is intended to be covered within the proscription of title VI, and may I explain why I think so?

Section 601 reads as follows:

SEC. 601. Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

My question specifically is, Does the last clause which I have stated embrace discrimination in employment under a program which is receiving Federal financial assistance?

I yield to the ranking member of the committee on the majority side to respond.

Mr. RODINO. I believe it would be necessary to look at each program to determine what the purpose of that program is in order that we might find out whether it is covered.

Mr. POFF. I will ask the ranking member on the minority side the same question, and will attempt to illustrate the question with an example:

Let us assume that a contract has been awarded or is about to be awarded to a local community under the Hill-Burton program, and the charge is made by some person that he applied for employment to the contractor who had been employed to construct the addition to the local hospital and had been denied employment on account of his race. Would the proscription of title VI extend to such a case?

Mr. McCULLOCH. If the discrimination was solely by reason of race, and all the other factors implied in the question were present, it is my opinion there would be authority to withhold the funds. As a matter of fact, Mr. Chairman, there probably is authority to withhold those funds now. I might say it appeared to be the feeling of the Secretary of Health, Education, and Welfare that he had that authority now. As a matter of fact, the record contains at least eight acts passed by this and previous Congress where such authority was given to the Secretary of Health, Education, and Welfare. I am surprised at the speeches that have been made by members of the committee describing this authority as they have described it.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. McCULLOCH. Mr. Chairman, I move to strike out the requisite number of words, and yield to the gentleman from Virginia, whose time I took.

Mr. POFF. I thank the gentleman.

May I propound one more question with reference to a contract to construct a primary or secondary highway under the program of Federal financial assistance to the States. I will invite the ranking Member on the majority side to respond, if the gentleman from Ohio will permit.

Mr. RODINO. With respect to the Federal-aid highway program, this program provides Federal grants to States for construction of highways. Generally the Federal share is 90 percent of the cost of the Interstate System and 30 percent of the cost of the primary and secondary system. The recipients of aid are therefore the States. In this case we include the highway users and construction and maintenance employees. I would expect, therefore, that title VI would authorize action in such a situation to preclude racial discrimination with respect to the services in the facilities made available through this program.

Mr. McCULLOCH. I agree with the able, dependable answer of my colleague on the committee, the gentleman from New Jersey [Mr. RODINO].

Of course, members of this committee know that the Federal Government has

already moved to implement the declaration that the gentleman has made under laws now in investigation.

Lest my answer was not completely accurate with respect to the Hill-Burton Act, my good friend and colleague, the gentleman from Michigan [Mr. MEADER] hands me the hearings on the civil rights legislation. On page 1539 the Secretary of Health, Education, and Welfare says this:

> In certain programs, such as, for example, the Hill-Burton program, the Congress itself has said "separate and equal." We are in court on that question. The Congress itself also said we cannot interfere with the internal affairs of the hospital. We probably have no discretion.

But, Mr. Chairman, the Supreme Court of the United States has struck down the "separate but equal" doctrine as contrary to the Constitution of the United States, and rather than mislead my able colleague in the slightest, I would say first I do not think that segregation even with separate but equal facilities is in accordance with the law of the land, and I do not think it would be certainly under the legislation which we are considering; and, Mr. Chairman, it should not be.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. McCULLOCH. I yield to the gentleman.

Mr. POFF. It is my understanding that title IV is intended to deal only with public schools. May I inquire with reference to title VI? If school lunch benefits or school milk benefits are extended to private schools, could the Department of Agriculture cut off such assistance to private schools under title VI?

Mr. LINDSAY. Mr. Chairman, will the gentleman from Ohio yield so that I may answer the inquiry of the gentleman from Virginia?

Mr. McCULLOCH. I yield to the gentleman.

Mr. LINDSAY. As I understand it, the gentleman's question was, Are those cases where Federal funds are supplied for school milk to private schools covered? The answer is "Yes."

Mr. Chairman, will the gentleman from Ohio yield further?

Mr. McCULLOCH. I yield to the gentleman from New York.

Mr. LINDSAY. I wonder if I could just add one comment here—I hope for clarification. On the question that the gentleman from Virginia put with respect to the Hill-Burton Act program, it would certainly be true that title VI eliminates all doubt and overrides the separate-but-equal provision contained in the Hill-Burton Act.

I thought the gentleman's question was as to the relationship between title VI and title VII with respect to Hill-Burton.

Mr. POFF. No; I am afraid I did not make my question clear.

Mr. CRAMER. Mr. Chairman, I move to strike out the last word and I do so also to yield later to the gentleman from Virginia.

Mr. Chairman, there are a number of aspects about this title that are quite disturbing to me.

One of the basic areas of disagreement, and I think it is understandable, is that resulting from the language found on page 62, lines 20 and 21, referring to the termination of, or refusal to grant or continue assistance under such program or activity to any recipient.

I think everyone will admit this is an area where that causes extreme difficulty. I do not think the title is artfully drawn. I do not believe it will accomplish its objective.

Now who is the "recipient"? Is the recipient the agency that administers the program or is it the ultimate recipient, meaning the beneficiary? How can you differentiate between recipient and beneficiary? According to the dictionary, they are the same thing—a recipient is a beneficiary and a beneficiary is a recipient.

I was rather surprised to listen to the arguments made by the distinguished chairman of the Committee on the Judiciary, before the Committee on Rules, as to what is the differentiation. The chairman tried to explain that the word "recipient" was used because it was different from "beneficiary." Recipient really means the agency that gets the money to be disbursed.

But I find it impossible to make that distinction with only the word "recipient" being in line 21 and I think that area needs considerable clarification.

Secondly, what is meant by "such program or activity to any recipient"?

You can cite numerous examples.

Let us take this example that the gentleman from Virginia was discussing just a minute ago. Let us take the school program. Let us take the lunch program.

Let us say, there is a school board with 25 schools, and in 1 school the program is administered in a way that discriminates between students in that school. According to this wording, the school lunch funds would be cut off. According to the chairman's interpretation, the recipient would be the school board. And the funds would be cut off across the whole school district.

I ask the gentleman from New Jersey—is that not the effect—that the entire school district would be cut off because one school may be administered in such a way that someone wants to complain, with regard to this title?

Mr. RODINO. In my opinion, that does not necessarily have to be the case.

Mr. CRAMER. If the chairman's definition of "recipient" is correct, then the funds will be withheld from all schools in that district because the school board is the recipient.

Mr. RODINO. No, I do not agree with the gentleman that that would necessarily follow.

Mr. CRAMER. Well, then, the gentleman did not hear the testimony of the distinguished chairman, or he did not follow his logic.

At this time, Mr. Chairman, I yield to the gentleman from Virginia [Mr. POFF] who was discussing this matter.

Mr. POFF. I thank the gentleman. If I may, however, I would like to pose a question on another subject, or would the gentleman prefer that I defer until later?

Mr. CRAMER. Let me ask another question first and then I will be glad to yield to the gentleman.

Let us take the Hill-Burton Act. Here is what bothers me when you get to the practicality of how this thing is going to be administered. I do not think anybody knows exactly how it is going to be administered, and who is going to be affected, and how or what rules and regulations are going to be adopted in order to carry out the broad intent of this title.

Let us consider the Hill-Burton Act. Let us assume there is to be an addition to a hospital, and for the addition Hill-Burton funds are to be permitted. As a result of the board of health saying, "OK," hospital A has finally reached the top priority. It is now entitled to build an addition, to the exclusion of all other hospitals in the State, and to have money for it. The money, let us assume, is made available for the addition. The addition is halfway constructed. Half of the bills have been paid and half have not been paid.

Then let us assume that nurse X comes in to apply for a job. She is a Negro who wants to be hired for work in the addition to the hospital which is not yet even completed, but will be in the future. The hospital, for some reason, does not hire her. Let us say the reason does not even relate to race, color, or national origin. That is something the hospital would have to prove at a later date. The nurse is not hired. She is a Negro. She applied in a group of five, four of whom were white.

That Negro nurse, under this title, let us assume, complains to the Secretary of Health, Education, and Welfare that she was discriminated against in not being hired, and demands that the funds be cut off.

The funds could be cut off under those circumstances. Is that not correct?

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. CRAMER was given permission to proceed for 5 additional minutes.)

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from New Jersey for an answer.

Mr. RODINO. If I correctly understand the gentleman's question, he asked whether or not funds could be cut off at the request of a nurse claiming to have been discriminated against.

Mr. CRAMER. This language would give the Secretary authority to make rules and regulations and to cut off funds if the hospital administrator discriminated.

Mr. RODINO. To assure nondiscrimination; yes.

Mr. CRAMER. That is correct. That is exactly what I thought was the thrust of the title.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Virginia.

Mr. POFF. I should like to pose a question and to invite answers from both sides of the aisle.

I am aware of the purpose of the language which introduces this title. Namely, "Notwithstanding any inconsistent provision of any other law," is among other things intended to except such statutes as the Hill-Burton Act, which contain a separate-but-equal clause.

However, I wonder if that language might not have another effect which perhaps is not intended. Let me explain what I mean—41 United States Code 5 requires advertisement for competitive bids on Government contracts for construction or supply.

This title of the bill would require the administrator of every agency—and that would include the Department of Defense—to take action to effectuate the provisions of section 601. It would also authorize any administrator to effectuate those provisions "by any other means authorized by law."

In taking action to effectuate the provisions of section 601, could the Department of Defense award a contract to a high bidder on the grounds that the low bidder was not a responsible bidder because he had discriminated on account of race?

Mr. CRAMER. Mr. Chairman, I am delighted to yield to the gentleman from New Jersey for an answer.

Mr. RODINO. It is possible, on the grounds that the bidder did not comply with requirements that there be nondiscrimination. But such a procurement program, in any event, the Federal Government deals directly with the contractor. Any discrimination in such procurement would be prohibited by the fifth amendment to the Constitution.

Mr. CRAMER. May I follow up, with another question?

Mr. RODINO. If the gentleman will yield further, I add, that is the law today under Executive Order 10925.

Mr. CRAMER. There is no statutory authority for the President to do so at the present time, however.

Let me ask the gentleman an additional question.

What is meant, on line 14, by the words "an order of general applicability"?

If I correctly understand, what is meant is that if there is a given rule or regulation or an order relating to a specific discrimination situation, then the Secretary of Health, Education, and Welfare, or some other administrator, could issue an order that would have general applicability covering the entire country. Is that not correct?

Mr. RODINO. My understanding of this term is that it would be generally applicable to the entire program.

Mr. CRAMER. All right. The gentleman has answered that question. Then, how would this order evolve? If that hospital administrator wants to be heard on the question—and the crucial question is discrimination, is it not?

Mr. RODINO. That is correct.

Mr. CRAMER. If he wants to be heard on whether he did or did not discriminate—and whatever that means I do not know, because it is not defined in this title—but if he wants to be heard on the question of whether he did or did not discriminate, he does not have a right, according to title VI to be heard on the question of discrimination until it comes to a review under section 603. Is that not correct? If he does not like the order, then he has a right to a judicial review in section 603.

Mr. RODINO. He has that right.

Mr. CRAMER. But he has no right to be heard, which is the point I want to make, on the question of discrimination until after an order has been issued saying, "You cannot. You, you school board supervisor, you, you hospital administrator—you have discriminated and your funds will be cut off." Then he has the right to go to court under the Administrative Procedure Act with very limited review on the question of whether he did or did not in fact discriminate.

Mr. CRAMER. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CRAMER. I am disturbed about this because it is quite obvious that the real crux of this whole title is the manner of determining whether a person did or did not discriminate. Yet a public official, a hospital administrator or otherwise, the State board or the administrating agency, does not have an opportunity to be heard on the question of discrimination until after the order is issued. Of course, I know and acknowledge what is in this bill with regard to advising an agency of its failure to comply. It says:

Provided, however. That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

However, the order is issued and there has been no hearing on the question of discrimination. He is not entitled to a hearing on it unless he wants to go to the Administrative Procedure Act, which gives the Government the advantage of having the defendant or the party aggrieved having to prove that there was an abuse of discretion. He does not have a right to the predominance of evidence rule. I think the gentleman will agree with that. But the party does not have a right before the ordinary issues to have the question of discrimination decided. That is the weakness of this whole procedure. I ask the gentleman that, and I am glad to yield to the gentleman on that point.

Mr. RODINO. Mr. Chairman, first of all, the gentleman cannot, I say, disregard the fact that the administrator of the particular department would have to establish a record in order to cut off funds. There must be an express finding of noncompliance. This record would be established on the basis of the continued refusal of the recipient to comply with the rules and regulations prohibiting discrimination.

Mr. CRAMER. And on the initial determination of fact as to whether that administrator discriminated in refusing to hire that Negro who was one of five applicants in that hospital, he would not have the right to have that determination made until after the order had issued and the funds had been cut off with no attempt at voluntary compliance. He has to go to court under the Administrative Procedures Act to prove it, but he never had the opportunity to appear before that agency and say, "You are wrong and here are the facts."

Mr. RODINO. All the person who is supposedly charged with discrimination has to do is to voluntarily comply, and end discrimination and then there will be no cutoff.

Mr. CRAMER. That is the very point. The only position he can take is to hire this person who otherwise is not qualified and against whom he did not discriminate. That is the very point I am making.

Mr. MATHIAS. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, in the colloquy which has just taken place there has been a certain beclouding of the question of the scope of the cutoff order that would be issued if there were a finding of discrimination in the administration of a Federal program. We had some testimony on this subject before the Judiciary Committee and I think it is relevant at this point to refer to page 2766 of the hearings. The Attorney General was before the committee as a witness and the question was asked him in probing what the administration's intentions were in recommending this title:

Take the school lunch program. Suppose there were some discriminations in the school lunch program. Does this mean that the school is going to be cut off from school lunch funds, or in your judgment would you cut the school off from area aid?

The Attorney General answered:

No, just from the particular program where the discrimination exists.

Then the gentleman from Ohio asked the question:

If there were discrimination in the school lunch program within the school district, would it affect the schools that were not discriminating and those that were discriminating as well in the same district?

And the Attorney General answered:

It would just be the ones that were discriminating.

He was further asked:

Mr. Attorney General, I would take it from your remarks that it is the position of the administration that in withholding funds from a program, that it would not be a whole State or a whole county or a municipality. It would be very closely particularized.

And the Attorney General answered:

As specific and particular as it possibly could be.

I believe this was certainly the understanding of the members of the committee in working on the bill, that this title would be administered so that the cutoff would be localized to a specific program at a specific place.

Mr. WHITENER. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield to the gentleman from North Carolina.

Mr. WHITENER. The gentleman, I am sure, made the statement by inadvertence when he said that title VI which we are now debating was the administration proposal. Is it not correct that the administration proposal as sent up by the Department of Justice is the one to be found on pages 34 and 35 of the print which we have before us and that the Attorney General was really before us at the time the gentleman mentions for the purpose of telling the full Judiciary Committee that the subcommittee bill was intolerable even as far as he was concerned?

Mr. MATHIAS. I think the gentleman will recall that when the Attorney General was here and answered these questions which I have quoted to you was in mid-October and at that time there was under discussion the drafting of a bill which melded various views which were discussed fully before the committee from the 8th of May until the 15th or 16th of October when he was testifying.

Mr. WHITENER. But the bill before the committee to which the gentleman referred at that time was the one which the Attorney General said in effect was a police-state bill and was not the bill which the administration recommended.

Mr. MATHIAS. In any event I think that title VI which is now before this Committee is a very much improved version over the original version.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield.

Mr. CRAMER. The gentleman's remarks included very properly the testimony of the Attorney General relating to this program and who had been cut off and according to what he read it is in complete divergence with what the distinguished chairman said on page 141 of the Rules Committee when he appeared and said:

> The receipt of the grant is the one in charge of the program or activity.
>
> The purpose is to cut off funds and the only purpose in the first instance is the agency that gets the funds to be cut off.

The distinguished chairman of the committee, the person whose name is on the bill, says the program for that whole agency will be cut off. The Attorney General said that individual schools will be cut off. I would like to get the gentleman's opinion as to which would be cut off.

Mr. MATHIAS. It would be the local cutoff of a particular program at a particular place.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield to the gentleman from Ohio.

Mr. McCULLOCH. My answer is the same as that of the gentleman from Maryland, and the RECORD later on carries that answer with respect to all such cutoffs. It is particularized in accordance with the testimony which I read.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from North Carolina end in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HARRIS. Mr. Chairman, reserving the right to object, I would like for the gentleman to withhold that. I have a perfecting amendment I would like to offer. I think it will get to the heart of the decision on this particular matter.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time, after a rather lengthy discussion of this particular title of the legislation has been had, to ask a couple of questions in order to clarify some of the questions which have not yet been clarified, and I would like to direct to the chairman of the committee, if he will give me his attention, these questions:

Mr. Chairman, in section 601, title VI of this legislation, we find these words:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in—

I would like to ask the chairman of the committee why for the first time in describing those not to be excluded from participating in federally aided programs why religion has been omitted from this particular wording, whereas on page 35 of the administration bill the word "religion" was included.

Mr. CELLER. I did answer that question.

Mr. WAGGONNER. The gentleman talked quite a bit, but he did not answer it.

Mr. CELLER. I cannot answer it beyond the words I said, and I will repeat them. We left the word "religion" out because there was no need shown for inclusion of the word "religion." Clergymen testified that they were satisfied with the elimination of the word "religion" in this particular title.

We also felt it would avoid a great many problems and it would be expedient to leave the word "religion" out. Finally, aid presently goes to sectarian schools and universities. There is a good deal of that going to sectarian schools that have precluded the word "religion."

Mr. WAGGONNER. Does not the chairman of the committee find it a little bit inconsistent to say that there is no need to include "religion" in this title when day before yesterday the gentleman from Mississippi [Mr. ABERNETHY] offered an amendment to strike "religion" from title II, and he pointed out very conclusively that during the hearings on this proposed legislation, not one single word of testimony was taken during the course of the hearings which indicated that there was any discrimination on the ground of religion anywhere?

Mr. CELLER. The other title related to accommodations. It was felt that in the case of accommodations it was quite essential to include the word "religion." In the case of title VI, which we are now debating, there was no need for it. The prelates who appeared before us thought we should include "religion" where it came to places of public accommodation, publicly or privately owned, and they were willing to have it excluded in this title. We felt if they were of that mind we would follow their advice.

Mr. WAGGONNER. The 88th Congress in the first session passed and saw signed into law a Federal aid to education measure wherein grants and loans were made available to sectarian and parochial schools. Does the gentleman mean to tell me that we are going to not deny assistance to these people if they as religious institutions discriminate against somebody because of religion in an aid to education program, and we are going to make all inclusive all of these other parties?

Mr. CELLER. What discrimination they would make would be along these lines.

Mr. WAGGONNER. We have not defined discrimination in this bill, so how can you separate or justify any type of discrimination here? If it is discrimination, it is discrimination.

Mr. CELLER. We do not wish to exclude it from the program.

Mr. WAGGONNER. Would the gentleman be willing to accept an amendment including religion?

Mr. CELLER. No, there is no need for it. The local welfare groups do a good job. They have not asked for it.

Mr. WAGGONNER. I am glad the gentleman brought up welfare groups. That leads to my next question; that is, we object to any discrimination by an activity. How do you define "activity"? What is an activity?

Mr. CELLER. We speak of "program or activity."

Mr. WAGGONNER. You do not define "activity." What is an activity?

Mr. CELLER. We felt where "activity" or "program" was used, that means the activity or the work that may be done by a particular agency of the Government. A school lunch program would be an activity. I would call that an activity.

Mr. WAGGONNER. Is that not a program of the Government, of some governmental subdivision, at least?

Mr. CELLER. Yes.

Mr. WAGGONNER. Would the gentleman be willing to accept an amendment to that effect?

Mr. CELLER. I do not think it is necessary.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not know that any title has been more belabored or more erroneously interpreted than this one. It might be well to see what it is we are doing with this legislation, and what we are doing with this title. Already this committee has said to the business community:

> If you are in interstate commerce or if you serve interstate travelers you cannot discriminate.

Then we went on to say to the local and State governments:

> You cannot require discrimination in the business community in any way nor can you discriminate in your own activities or in your own facilities.

This title goes another step. It says the Federal Government will maintain the same standards that we have imposed on the business community and

on the States and their local governments. We are not going to discriminate, either. The fact of the matter is that Federal welfare programs are generally administered, and properly so, by State and local governments, who act for us in a sense as an agent. We set up all kinds of rules and regulations as to what they must do if they are to distribute this Federal money. And we are adding one more requirement—we are saying you cannot discriminate because of race. And that is all.

Now it is reasonable to ask whether there is any evidence as to a need for this legislation.

If you listened a while ago to the gentleman from New York [Mr. RYAN] you heard a long list of cases of discrimination. If you would check the Civil Rights Commission reports, you would see that that list is a very sad one.

The fact of the matter is, a great number of people have had the bread taken from them because of their activities in attempting to exercise their rights to vote. There is a need. There is no question about it and there was no question about it on the part of the committee.

We are going to see that this agent does not discriminate when it administers these programs for the Federal Government. This title will require the departments to take action to carry out this provision. They may promulgate rules. An amendment will be offered and I hope it passes that these rules will have to be approved by the President.

As an ultimate means of enforcement, if the agency insists on discriminating, then we will no longer permit them to act as agent for the Federal Government for the distribution of funds.

First, the department must make an express finding that there is discrimination. Then it advises this agent and they negotiate and attempt to terminate the discrimination.

Assuming that all this fails, and this agent who is distributing Federal funds insists on discriminating then the department has the ability to cut off the funds.

There will be an amendment offered, which I hope will pass, that the Congress must be notified 30 days before such action becomes effective.

What about the agent who is faced with this decision by a so-called faceless administrator? How is he to be protected from this action? Maybe this will be a capricious act on the part of some politician. He has the right to appeal to the Federal courts up to the U.S. Supreme Court. If he does, then the administrator must go in and prove by a substantial amount of evidence that he did not violate his discretion.

Congress will make clear by the passage of this title that when using Federal funds they are to be distributed without discrimination, just as we insist that businessmen and the States do not discriminate.

What about the starving children? This is a tough one. Are we really going to say that because you will not feed black children, we will not let you feed the white children either? What we are saying is we are not going to let you be our agent any more. If you want to administer the program and you discriminate, we are going to have 30 days notice of that fact and this Congress can then see that the welfare program is administered in some other way.

There is no reason at all to believe there will be little children suffering. This Congress has it within its power to distribute these funds directly if the present program is disrupted.

I would like to say with reference to this whole legislation, and I hesitate because I saw what happened to one of my colleagues when he cited something that he had learned in law school before the Committee on Rules. But I learned something in law school and it is this—when you have the facts with you—pound on the facts. If you do not have the facts, pound on the law. If you do not have the facts or the law, pound on the table.

Now the opponents of this bill have done an awful lot of pounding on the table. When that pounding reduces itself to attacks on the chairman of the Committee on the Judiciary or takes the form of the shouting dictatorship and communism it reminds me of a fellow who once pounded on the table with his shoe.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. JONES of Missouri. I was amazed at your statement when you said that if the agent refuses to act, then the Congress can enact a new law setting up a new agency within 30 days. Are you not rather optimistic about that?

Mr. CORMAN. I believe that if, as the gentleman from Florida was saying a while ago, little children were suffering that this great and goodhearted Congress would provide the funds necessary to keep them from suffering and the funds could be distributed directly to them without going through the hands of a State or county agent who insists on giving it only to some children and not to others.

Mr. JONES of Missouri. What if Congress had adjourned in July?

Mr. CORMAN. I would say that if the plight were as bad as painted by the gentleman from Florida, Congress would come back into session.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer a perfecting amendment.

Mr. MEADER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MEADER. Is it in order to offer an amendment in the nature of a substitute to the motion by the gentleman from North Carolina [Mr. WHITENER] to strike title VI?

The CHAIRMAN. The answer is "No."

Mr. MEADER. Then if the motion made by the gentleman from North Carolina to strike title VI should prevail, that would be the end of title VI and it would not be open to further amendment; is that correct?

The CHAIRMAN. Following favorable action on the amendment offered by the gentleman from North Carolina [Mr. WHITENER], an amendment to propose a new title might be offered.

Mr. JONES of Missouri. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. JONES of Missouri. Are we to understand that if the amendment offered by the gentleman from North Carolina [Mr. WHITENER] should be defeated, we would move from title VI or have to offer some new thing? We would not be able to amend the other title?

I understood the Chair to say we could not amend title VI if the amendment of the gentleman from North Carolina [Mr. WHITENER] fails.

The CHAIRMAN. I believe the gentleman from Missouri misunderstood what the Chair said.

Mr. JONES of Missouri. Would the Chair please repeat what the Chair said?

The CHAIRMAN. In substance the Chair said that following the adoption of the amendment offered by the gentleman from North Carolina an amendment could take the form of a new title VI.

Mr. JONES of Missouri. That is, if the amendment of the gentleman from North Carolina prevailed?

The CHAIRMAN. The gentleman from Arkansas [Mr. HARRIS] has offered a perfecting amendment, which is in order at this time.

Mr. MEADER. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MEADER. If the amendment of the gentleman from North Carolina [Mr. WHITENER] is defeated, will title VI then be open to amendment at any point?

The CHAIRMAN. Title VI then would be open to amendment.

The Clerk will report the perfecting amendment offered by the gentleman from Arkansas [Mr. HARRIS].

The Clerk read as follows:

Amendment offered by Mr. HARRIS: On page 62, line 3, after "Sec. 601" strike out all language through and including line 15 on page 63 and insert the following:

"Notwithstanding any provision to the contrary in any law of the United States providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guaranty, or otherwise, no such law shall be interpreted as requiring that such financial assistance shall be furnished in circumstances under which individuals"——

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. What is the perfecting nature of this amendment to the pending amendment?

The CHAIRMAN. The Chair advises the gentleman from New York that the perfecting amendment is now being reported by the Clerk. The objective of that amendment will, I assume, be made clear on the completion of the reading.

The Clerk will continue to read.

The Clerk read as follows:

"in circumstances under which individuals participating in or benefiting from the program or activity are discriminated against on the ground of race, color, religion or national origin or are denied participation or benefits therein on the ground of race, color, religion, or national origin. All contracts made in connection with any such program or activity shall contain such provisions as the President may prescribe for the purpose of assuring that there shall be no discrimination in employment by any contractor or subcontractor on the ground of race, color, religion, or national origin."

Mr. MEADER. Mr. Chairman, a parliamentary inquiry.

Mr. CELLER. Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Arkansas is not a perfecting amendment but is an amendment in the nature of a substitute, and therefore is out of order as a substitute to the amendment of the gentleman from North Carolina, which would strike out the entire title.

The CHAIRMAN (Mr. KEOGH). The Chair points out to the gentleman from New York that the amendment offered by the gentleman from Arkansas undertakes to strike out part of the language contained in title VI and to insert new language; and that therefore it is in fact a perfecting amendment. The point of order is overruled and the gentleman from Arkansas is recognized.

Mr. CELLER. Mr. Chairman, will the gentleman from Arkansas yield?

Mr. HARRIS. I yield to the chairman.

Mr. CELLER. Mr. Chairman, I would like to know whether I could propound a unanimous consent request to the gentleman as to how long it will take for the gentleman to argue his amendment.

The CHAIRMAN. Does the gentleman from Arkansas yield to the gentleman from New York for that purpose?

Mr. HARRIS. I will be glad to yield so long as it does not come out of my time.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that this not be taken from the time of the gentleman.

The CHAIRMAN. Without objection, that will be done.

There was no objection.

Mr. HARRIS. So far as I am concerned, I am going to take just a few minutes, because I think it is very clear and simple as to what this will do as compared with what the language in the present substitute bill does.

Mr. CELLER. Mr. Chairman, will the gentleman consent to a unanimous consent request that all debate on his amendment cease or conclude in 20 minutes?

Mr. HARRIS. That depends on how many want to talk on it.

Mr. CELLER. In 25 minutes?

Mr. COLMER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COLMER. Did I understand that the request is for 30 minutes on this particular amendment?

Mr. CELLER. That is right.

Mr. COLMER. And confined to that amendment?

Mr. CELLER. That is right.

The CHAIRMAN. The Chair understands the request to be 25 minutes on the amendment offered by the gentleman from Arkansas.

Mr. CELLER. Mr. Chairman, I make that 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair observes on their feet awaiting recognition the following: Mr. CELLER, Mr. COLMER, Mr. MEADER, Mr. LINDSAY, and Mr. BOGGS.

Mr. ROOSEVELT. Mr. Chairman, I wish to make a parliamentary inquiry, and I ask unanimous consent that it not be taken out of the time of the gentleman from Arkansas.

The CHAIRMAN. Without objection, that will be done.

There was no objection.

Mr. HARRIS. Mr. Chairman, I yield to the gentleman for that purpose.

Mr. ROOSEVELT. I make the parliamentary inquiry, Mr. Chairman, to find out whether, if the amendment of the gentleman from Arkansas is adopted, that then becomes open to amendment.

The CHAIRMAN. Not after it is adopted.

Mr. ROOSEVELT. I thank the chairman.

The CHAIRMAN. The gentleman from Arkansas is recognized for 5 minutes.

Mr. HARRIS. Mr. Chairman, we are arriving at a point where we are going to make, in my judgment, a most important decision. I do not think there is anybody in this House that wants arbitrarily to deprive anyone of something that will help as the various laws which this Congress has put on the statute books provide for.

The late President of the United States felt that there should be something done in this particular field. My committee has wrestled with this highly sensitive problem a good many times. We did the other day with the extension of the Airport Construction Act. We did previously with H.R. 12, the Medical Education Assistance Act, and with the mental health and retardation program which this Congress passed this year.

When the President said that this could be reached in a way that would be more meaningful and effective it was included in the bill originally introduced, which was the President's bill. The language sent up to the Congress is on page 34 beginning at line 23. That is simply what this amendment would do. That was the program. It would be clear cut and decisive in bringing about compliance of these programs if the people to be benefited want to obtain assistance through Federal programs.

The title which we have before us has virtually, in a much narrower paragraph the same meaning in section 601. But sections 602 and 603 following sets up a procedure which provides that regardless of any statutes if the person who is to enforce compliance feels that any action consistent with the "achievement of the objectives of the statute" is necessary, such action becomes the law by rule or regulation.

When this program was put together it was good procedure and it is good procedure today. What is done by these sections? We set up a procedure for judicial review and even bring into play the Administrative Procedure Act.

Mr. Chairman, one of the things with which we have had so much difficulty over the years is the procedures and interpretation of the Administrative Procedures Act. We are going to find that we are so fouled up, as are agencies themselves by this kind of procedure—I wish I had the time to tell you about it.

The record has to be developed, which goes before the board, the agency, or Commission. Then the case is decided by the full Commission or by the agency. Judicial review is requested. Then it goes to the courts. The courts can consider nothing except the record made by the hearing examiner as interpreted and approved, if it is approved, by the Commission itself.

What this amendment does in very precise and specific terms is to say that you cannot require such financial assistance to be furnished and that the laws of the land are applicable thereto.

There is a provision to which I would like to call your attention with reference to contracts made in connection with such programs. They shall be subject to such conditions as the President may prescribe. So it reaches into the field not administered by the agency itself. I think it is a much better procedure and I urge this perfecting amendment be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana [Mr. BOGGS].

Mr. COLMER. Mr. Chairman, will the gentleman yield to me?

Mr. BOGGS. I am glad to yield to the gentleman from Mississippi.

Mr. COLMER. Mr. Chairman, I ask unanimous consent that the time allotted to me may be used by the gentleman from Louisiana.

Mr. BOGGS. I appreciate that, but I am not certain I need that much time. I thank the gentleman.

The CHAIRMAN. Without objection, the time allotted to the gentleman from Mississippi [Mr. COLMER] may be used by the gentleman from Louisiana [Mr. BOGGS].

There was no objection.

Mr. BOGGS. Mr. Chairman, I would first like to compliment the Members of the House on their diligence in attending the sessions for the past week. I would also like to compliment all of those who have participated in the debate on the very complex and controversial issues which have been before us.

I would like to express the hope that the debate will continue in that tenor and vein it has proceeded up to this time.

Mr. Chairman, I have been reluctant to participate in the debate for a variety of reasons. The main one being that a great many people wanted to be heard and have been heard. But I am constrained now to support the perfecting amendment to title VI. I say this with the greatest degree of sympathy for the problems that confront us as a nation and the problems that confront the various groups in our country.

I think that President Kennedy, whom all of you know I considered one of my beloved personal friends, was right when he looked at this provision with a great deal of questioning. As a matter of fact—it may be now in the RECORD, but it does not hurt to put it in the RECORD again—last April the President was asked about this problem and he said:

I don't have the power to cut off the aid in a general way as was proposed by the Civil Rights Commission and I think it would probably be unwise to give the President of the United States that kind of power * * * what was suggested was a wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent, as a disciplinary action on the State of Mississippi. I think that is another question, and I couldn't accept that view.

A few days later, at another news conference, the same issue was raised again, and the President repeated his views. I shall state them as I have them before me:

We shall also continue not to spend Federal funds in such a way as to encourage discrimination. What they were suggesting was something different. That was a blanket withdrawal of Federal expenditures from a State. I said I didn't have the power to do so, and I do not think the President should be given that power.

Again, when the President sent up his civil rights message to this body in June, if I remember correctly, he limited his recommendations on this issue to a request that the law be amended, making it clear that the Federal Government is not required under any statute to furnish any kind of financial assistance to any program in which racial discrimination exists.

I think that recommendation is indeed a far cry from the granting of sweeping authority contained in the existing title VI as we now have it before this body, which would give all of the agencies of the Federal Government unlimited power to cut off funds which have been collected in the form of taxes from all of our citizens from all over the United States. Obviously, this is discrimination in reverse, since each citizen regardless of race, color, or religion, has paid taxes uniformly throughout the 50 States of our Union. We seek to do here what we say we do not do in the main body of the legislation before us. Title VI is discriminatory. The effect of title VI, in my judgment, would be tremendously harmful to the Negro citizens in my section of our great country.

Why do I say that? In my area we have more unemployment, we have less education and training, we have more poverty, we have more health problems among our Negroes than we do among the other groups, and I regret this as much as any other person. I bow to no one in my support of programs which are designed to alleviate these conditions, to help the Negro have exactly the same opportunities to enjoy a decent standard of living.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from New York.

Mr. CELLER. Is the gentleman aware that the amendment offered by the gentleman from Arkansas contains the words "insurance" and "guaranty", and that in the bill we have offered, which comes out of the Judiciary Committee, we eliminate the words "insurance" and "guaranty"? The result would be as follows: The amendment offered by the gentleman from Arkansas would mean that they would be included and could be cut off, such programs as grow out of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Corporation, the FHA insurance programs, any Federal insurance or mortgage guarantee program; whereas we in our bill eliminate the words "insurance" and "guaranty" so that our bill, that is, the Judiciary Committee bill, has no relation whatsoever, it does not embrace within its terms the FDIC, involving bank loans, the Federal Savings and Loan Insurance Corporation, FHA insurance programs, or any Federal insurance or guarantee program. They are included in the amendment offered by the gentleman from Arkansas. They are excluded in the bill we have before us. We excluded them because there was an avalanche of protests.

Mr. BOGGS. I appreciate the gentleman's explanation, but I think the fundamental difference is that in the original language in your original bill—which is now in the Harris substitute—the whole approach was in a discretionary fashion rather than in a mandatory fashion.

Mr. CELLER. No; it is quite different. Not only that, I want to show you another difference. In the provision of the amendment offered by the gentleman from Arkansas there is no judicial review, so that any arbitrary action by the agency is not reviewable, whereas in the provision we have we give review under the Administrative Procedures Act, and a review can be had before the court of appeals.

Mr. BOGGS. Let me proceed for just a moment. Frankly, the thing that concerns me about this whole provision is the effect it may have upon our Negro citizens.

Now let me give you some examples of what I am talking about.

Let me be specific. In my own State of Louisiana, for instance, the old-age assistance program, if you look at the language as it now exists in title VI, would be subject to this provision.

In the State of Louisiana, every Negro over 65 years of age with the exception of about 5 percent draws old-age assistance. This has made a tremendous difference in the way these people live. It is unfortunate that they have to qualify for old-age assistance. But think what it would be like if they were not able to get that assistance?

Some time ago we had a little problem involving the highway system in the State of Louisiana. I say it was a little problem—it was a major problem. The question arose on this very point as to whether or not Federal participating funds would be cut off. As a matter of fact, the person who ultimately resolved the issue was the President of the United States himself, President Kennedy, and he determined that the funds should not be cut off.

The effect, had the funds been cut off, would have been to affect our Negro population much more severely than our white population because of the total amount of manpower employed in the highway system in Louisiana, about 80 percent is Negro.

So I could go on and cite these statistics one after another.

As I said a moment ago, I support these programs to eliminate poverty. I have supported the ARA program and the manpower retraining program. I have supported educational bills. I have supported hospital bills and bills for aid to the mentally ill, old-age assistance bills and social security legislation. I have supported all of these things that are designed to help all of our people regardless of race, religion, creed, or whatever it may be.

Mr. Chairman, it occurs to me that if title VI is applied, the people who are going to be hurt the most are the people who need this assistance the most, all over our country.

Finally, I want to point out one other thing that gives me a great deal of concern. I am afraid this proposed legislation comes before this legislative body basically as a punitive proposition. I am frank to say, I think that is the wrong way to legislate on any kind of issue which may divide our Nation.

I have been in political office, and I have been in hard-fought political campaigns all of my life. I have had some experiences from which I could have built within my own mind and heart and soul a great deal of bitterness and sometimes I found it awfully difficult to eliminate that feeling from my own thinking. But I have refrained from doing so.

I know that punitive measures only beget more punitive reaction. I know that the way you proceed from any point of view other than trying to do right and to solve a problem, you not only do not solve the problem but you make the problem more difficult.

I am reminded, if I may, in this connection of a statement made a few years ago by one of the great Speakers of the House of Representatives, Speaker Rayburn. This is what he said:

I have never thought that legislation should be passed to punish anybody, any group or any section. I think it should be passed and made law to bring about justice to everyone as nearly as possible. In my opinion, we should not pass legislation in heat or in response to clamor but we should pass it after using every bit of brains and reason that we have.

Mr. CAREY. Mr. Chairman, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman.

Mr. CAREY. I think this is an appropriate time to inquire of the gentleman who is now in the well, the distinguished whip, if he would explain to me the implications in the amendment of the word "religion" now being inserted which was not in the committee amendment.

Mr. BOGGS. I yield to the author of the amendment if he cares to respond to the gentleman's inquiry.

Mr. CAREY. Then I will direct the question to the author of the amendment.

My question is this: I assume this amendment would apply to existing legislation in Federal programs. I can conceive of a situation, in a program which now exists of laws, which now exist on the statute books—with reference to teacher-training programs where in the training of teachers, if a teacher takes out a loan for the purpose of financing a teacher's education—if the teacher thereafter agrees to serve in the educational system in the employment of the public school system, the teacher is allowed forgiveness on that loan up to $5,000. On the other hand, if the teacher desires to serve in a parochial school system, the teacher does not receive forgiveness on that $5,000 loan.

Many educators have concluded that this is discriminatory because there is no reference to the religion of the teacher himself. It precludes the teacher from seeking employment in anything but a public school.

Now under the wording of this amendment, if an applicant for employment as a teacher brought in this set of facts, could the teacher contend that this is discrimination? If so would the program fall or should it be modified or withheld because of discrimination against his religious right to teach what and where he pleases under the wording of this amendment.

Mr. HARRIS. The word "religion" was included because of the pattern throughout the bill. What the gentleman does not seem to remember is that this, as the gentleman from Louisiana said a moment ago, would make it discretionary in the administration of the law. The President, or whomever he designated in the administration of the law for this purpose, would have discretion to carry it out as intended.

I say to the gentleman that under this provision there would be no problem at all with respect to the administrator administering the law as he should.

Mr. CAREY. Mr. Chairman, will the gentleman yield further? Will the gentleman point out to me where any discretion lies in the amendment?

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

The Chair recognizes the gentleman from New York [Mr. LINDSAY] for 5 minutes.

Mr. LINDSAY. Mr. Chairman and members of the Committee, this amendment is an empty box all tied up in a beautiful ribbon, and is the biggest mousetrap that has been offered since the debate on this bill began.

Do Members realize what is being attempted here? This offering you are asked to accept by the majority whip would do nothing more than say that we deal with two programs, Hill-Burton hospitals and land-grant colleges. Those laws have "separate but equal" clauses in them; they allow "separate but equal" segregation. This amendment would declare that unlawful; that is all. The fact is that those "separate but equal" provisions are probably illegal today under law, and we do not need any statute to make them illegal.

This amendment would be a "gutting" of one of the most important titles in this bill. Frankly, I am appalled that this is being supported in the well of the House by the majority whip.

I might ask, parenthetically, if this should be adopted, will the gentleman vote for the bill?

I might ask also who else the gentleman speaks for when he takes the floor and asks us to throw into the ashcan title VI of this bill?

I believe it appropriate to point out to the Committee that we have climbed a long, hard mountain since the middle of November when we had to salvage an impossible stalemate. We have fashioned together, in a bipartisan way, with the backing of the Executive and close work with the Justice Department, a bill now before us, which we have thought would have a majority of support.

Does this mean there is a "cave-in" on this important title?

The gentleman from Louisana says that the proposal the Committee is debating—title VI as it stands—would run the gamut. That is the point. It would run the gamut, and we say that the time has come—the time is now—in this separate legislation, for the U.S. Congress to make its declaration that, along with all the other conditions which Congress imposes on the grant of Federal money and which the Executive imposes in administrative regulations, we add that there shall be no use of Federal money to foster or perpetuate discrimination between the races.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield briefly, for a question, to the gentleman from Oklahoma.

Mr. EDMONDSON. Will the gentleman comment also on the argument made by the gentleman from Louisiana about the President taking part in the decision with respect to the amendment which he is supporting? I understand the gentleman from New York intends to offer an amendment on that point to the committee language.

Mr. LINDSAY. No, but I just heard our distinguished chairman of the Committee on the Judiciary yesterday on the floor say that the President supports the bill as it stands and as it came out of the Committee on Rules, and I do not understand that there is to be any retreat from that here and we will not accept any retreat in the other body.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the distinguished gentleman from Colorado, a member of the committee.

Mr. ROGERS of Colorado. You, as a member of the Committee on the Judiciary have participated with the subcommittee in the consideration of the language in this bill at the present time, have you not?

Mr. LINDSAY. Yes.

Mr. ROGERS of Colorado. We did discuss the question of judicial review with the ranking minority member, the gentleman from Ohio [Mr. MCCULLOCH], time and time again, we did want a judicial review. The President, when he sent the civil rights message to Congress on June 9, 1963, made certain recommendations concerning the enactment of legislation that caused us finally to write the title VI which is now here? Do you have that language before you?

Mr. LINDSAY. Mr. Chairman, I would like to refer to the message of the late President of the United States to the Congress of the United States on June 19, 1963, which reads as follows:

> Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from California.

Mr. ROOSEVELT. The gentleman asked whether there was any cave-in on this side. I want to emphasize that as I understand it there is no cave-in on this side.

Mr. LINDSAY. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from Michigan [Mr. MEADER] for 5 minutes.

Mr. MEADER. Mr. Chairman, this amendment would throw out a year's work on the most difficult section of this bill and restore the raw, broad language originally sent up to Congress. We, on the Judiciary Subcommittee, worked on this title more hours than on any other, and it was more difficult to find language for it. I myself have an amendment which I hope to offer if this amendment is defeated, which is the best I have been able to do to make this section workable.

Just an example of what this amendment does. This is the original language in section 601:

> Notwithstanding any provision to the contrary in any law of the United States providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, loan, insurance, guaranty, or otherwise, no such law shall be interpreted as requiring that such financial assistance—

And so forth. In our discussion with the representatives of the Department of Justice with the subcommittee over the draftsmanship and the phraseology of the bill, I asked Mr. Katzenbach as follows: "Under this language the foreign aid program would be affected, would it not?" He agreed that it would and that we would cut off foreign aid if there were discrimination in any recipient of foreign aid.

So, how did we take care of that in the subcommittee? Look at the bill as it now stands. You will see the phrase there, "No person in the United States shall."

But beyond that, as the gentleman from New York pointed out, this amendment provides coverage for insurance, guarantee, or otherwise. What is "or otherwise"? Any financial assistance of any kind. No one would ever know if anything was excluded from the terms of this bill if we go back to the original raw, imperfect language that was sent up here.

This is one title which has had more diligent legislative draftsmanship than any other.

I understand there are still some amendments to be offered if the opportunity presents itself. I myself perfected here this afternoon—I further perfected the amendment I am going to offer on the basis of discussions with some of my colleagues after they had seen a draft of the amendment.

Mr. Chairman, there is no more dangerous section in this whole omnibus civil rights bill than the one we are dealing with right now, and to ditch it in this cavalier fashion and to disregard long hours of study not only by the members of the subcommittee, the members of the Judiciary Committee and Members of the House, with the assistance of the experts in the Department of Justice, it seems to me would be the height of folly.

Mr. McCULLOCH. Mr. Chairman, will the gentleman from Michigan yield to me?

Mr. MEADER. I yield to the gentleman from Ohio.

Mr. McCULLOCH. By reason of being absent from the floor on important official business I did not hear the beginning of the statement of the gentleman from Michigan, but I wholeheartedly subscribe to that part which I heard. I want to say this further. If we pick up this old provision from the bill which did not get consideration and which does not provide for judicial review I regret to say that my individual support of the legislation will come to an end.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. CELLER] to close the debate on the pending amendment.

Mr. CELLER. Mr. Chairman, I am unalterably opposed to the amendment to the amendment offered by the gentleman from Arkansas as I am opposed to the amendment offered by the gentleman from North Carolina.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I want the gentleman to clarify one point. It has been argued here that the fact that the President is part of the amendment which the gentleman from Arkansas has offered is a point in its favor. It is my understanding that an amendment is to be offered by the committee in which the President is definitely brought into the picture on enforcement procedure of title VI under the bill before the House.

Mr. CELLER. An amendment will be offered which has been cleared by all those who are in charge of the bill, both Republicans and Democrats, to the effect that no rule or regulation shall be promulgated or made effective unless and until it has the approval of the President of the United States.

Mr. EDMONDSON. I thank the gentleman, and thoroughly approve this addition to the title.

Mr. CELLER. And, second, another amendment will be offered which provides that before aid can be cut off by any agency, that agency must notify in advance the appropriate committee of the House and the Senate of its action and 30 days must elapse before the agency can cut off aid.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. ALBERT. What the gentleman is saying, in order that the Members may be fully advised, is that if these amendments are voted down, the committee will offer such amendments as the gentleman has described.

Mr. CELLER. That is correct. Mr. Chairman, I yield the balance of my time to the gentleman from Colorado [Mr. ROGERS].

Mr. ROGERS of Colorado. Mr. Chairman, I believe clarification is in order as to what the administration actually supports. On June 19 there was sent a message to the House, a presidential message in connection with the civil rights bill. Part of this message was read by the distinguished gentleman from New York [Mr. LINDSAY] and I think it is appropriate at this time that I read another portion of it which is as follows:

> Instead of permitting this issue to become a political device often exploited by those opposed to social and economic progress it would be better at this time to pass a single comprehensive provision making it clear that the Federal Government is not required under any statute to furnish any kind of financial aid by way of grant, loan, contract, guarantee, or otherwise to any program or activity in which racial discrimination occurs.

I quoted that for the simple reason that under the bill that was sent to the House on the 20th day of June and introduced by the gentleman from New York, we had extensive hearings.

As previously emphasized by the gentleman from Michigan and by the gentleman from Ohio, if there is any one section that we devoted any time to more than any other it is this title IV. It was after much deliberation and consideration of the problem that we arrived at the conclusion that the only way in which this question could be solved is the one set forth in title VI.

If you will examine title VI you will see, as pointed out by the gentleman from Michigan, it applies to all persons in the United States, and says:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

That is the objective set forth in section 601. It is clear here. We have over 100 programs in the Federal Government where moneys are allocated. We provide a method whereby the agency or the Federal department who has this money for distribution shall draw rules and regulations. Those rules and regulations are subject to judicial review and it is important in here to have that judicial review that we have so that nobody can be denied any rights under any circumstances and as the chairman has announced when these amendments are offered it will amply clear the situation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ROGERS of Colorado and Mr. HARRIS.

The Committee divided, and the tellers reported that there were—ayes 80, noes 206.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MEADER

Mr. MEADER. Mr. Chairman, I offer a perfecting amendment to title VI of H.R. 7152.

The Clerk read as follows:

Amendment offered by Mr. MEADER: On line 3, page 62, after section 601, strike out everything down through line 15 on page 63, and insert the following:

"Any executive department or agency of the United States which extends financial assistance in the United States (by way of grant, loan, or contract, other than a contract of guaranty or insurance) shall require, as a condition to the receipt of such assistance, that the recipient assume a legally enforcible undertaking designed to insure that—

"(1) no person of a class for whose benefit such assistance was primarily intended will, because of his race or color, be excluded from all of or a part of the benefits of such assistance or be extended benefits of a different nature; and

"(2) no such person, otherwise eligible to receive the benefits of such assistance, will be subjected to different treatment because of his race or color than other persons receiving such benefits.

"SEC. 602. The undertaking referred to in section 601 shall contain such appropriate terms and conditions as the head of the department or agency granting the assistance may prescribe. The United States district court shall have jurisdiction of civil actions brought in connection with such undertakings by either the United States or by any recipient aggrieved by action taken under any such undertaking.

"SEC. 603. This title shall take effect one year after the date of enactment of this Act."

The CHAIRMAN. The gentleman from Michigan [Mr. MEADER] is recognized.

Mr. MEADER. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MEADER. Mr. Chairman, in contrast to the amendment upon which we have just acted, the amendment I offer is a product of study beginning in January of last year during which it has been my sincere effort to produce the most workable, understandable and effective means of enforcing the purpose of title VI without doing untold damage to a host of very important programs.

Mr. Chairman, this amendment has been available to members of the committee, together with a one-page statement explaining it, from the beginning of the session today at noon.

Similar language, which I have since perfected, appears in the committee report together with my comments on page 56 and 57.

Mr. Chairman, this subject of withholding Federal financial assistance where discrimination is practiced has

been the most troublesome question facing the subcommittee and the Committee on the Judiciary and the Members of the House of any provision in the whole bill.

The policy is clear. Certainly, Federal assistance can be given with conditions attached—as my chairman said, reasonable conditions.

Certainly, it is our national policy to treat all citizens alike and that that policy should be one of the conditions for extending Federal assistance which should not subsidize or perpetuate discrimination.

Although the policy is clear, we found it very difficult to express that policy in clear and specific legislative language.

In effect, what title VI of the committee bill would do and what my title VI would do would be to "pass the buck" to the agencies and departments and to the participants in the program.

There are two primary differences between the committee's title VI approach and my own. First, there would be greater flexibility in the approach I would take, by using the law of contracts as a means of spelling out the recipient's obligations. Second, we would use existing sanctions and remedies for violation of contract which provide for a day in court for any aggrieved person.

Basically, the bill requires departments to set up rules and regulations and to carry them out by withholding or by any other means authorized by law, whatever that means.

I feel sure Members are interested in knowing how extensive the program would be and what might be affected. To tell the truth, I do not believe anybody knows or has a complete inventory of the Federal programs to be affected.

The Department of Justice made a list, with dollar amounts, of programs which they say may involve Federal financial assistance. That starts at page 2775 and goes halfway through page 2779 of part IV of the committee hearings, which contains primarily the testimony of the Attorney General.

The committee never had much disagreement about policy on this point. We wanted to establish some criteria or standards to guide the execution of this policy. We asked the Secretary of Health, Education, and Welfare, Mr. Celebrezze, to suggest some. He never could suggest any. We have not found any. There are not any in the bill.

I believe there are more criteria and standards in the phraseology in my substitute than there are in the committee's title VI.

We wanted to provide for judicial review. Before I go into that, I wish to refer to the colloquy had between the chairman of the committee and Secretary Celebrezze, relating to criteria and standards which appears on page 1521 of part II of the committee hearings.

The gentleman from Ohio and I were quite concerned that sometimes decisions are made by administrators in the executive branch of the Government which are arbitrary and unreasonable yet there does not seem to be very much that anybody can do about it.

In my own State of Michigan, the Michigan Legislature passed a law, a draft of which had been approved by the regional office of the Department of Health, Education, and Welfare before the bill passed the house of representatives there. However, on the evening when the senate of the State was about to act on the bill, and then adjourn, word came from Washington that if the bill passed the State of Michigan still will not qualify. It was too late to do anything about it, and they passed the law.

The opinion on the part of the State officials was that Michigan did qualify. They disagreed with the Department of Health, Education, and Welfare. Michigan has never been able to take advantage of the aid to the dependent children of the unemployed program. Apparently no redress is available. The interpretation of the law and the determination of the Administrator appears as final as a decision of the Supreme Court.

If my version of title VI is adopted, there will be a redress available, because either party will then be able to go into court for the violation of the contract.

I would eliminate any limitation upon the utilization of the existing body of law of contract for a complete remedy before a court—not the "bobtailed" review of section 10 of the Administrative Procedures Act, under which the administrative findings are subject only to a limited review.

That part of the discussion and the remarks of the gentleman from Ohio can be found also in the hearings.

On page 1523 there is a colloquy between myself and Secretary Celebrezze with respect to the program to which I have just referred and also to what I regard as the arbitrary denial of the Hill-Burton funds to two hospitals in the city of Monroe in my district.

If you are interested in the costs of this program, they are found on page 1527, and if you are interested in the list of the specific programs in the Department of Health, Education, and Welfare, they are found on page 1537 of the hearings.

The Department of Health, Education, and Welfare alone, according to Secretary Celebrezze, has 128 programs costing $3.7 billion a year and in 8 of those programs he thinks he has the authority to withhold funds at the present time, and as to the rest of them he does not think he has the power.

These important programs mean a lot to a lot of people and any across-the-board legislation must be expressed most skillfully or you will find that you are disrupting these programs. This has been my aim in the language that I have fashioned here. I think it will do the job, because it requires that the administrator, who is familiar with the program, sit down with the recipient, who is also familiar with it, and spell out in detail that the recipient will do A, B, C, and D and that he will not do A, B, C, and D. He knows before he gets the money what he is required to do, and if there is any question of enforcement, they can also provide for any special method of enforcement in the terms of the contract document, and for any dispute that might arise, they can provide a means for informal settlement. Then, if all of those things fail, they have a full action in court, which is the only fair thing to do, in my judgment.

Under leave granted in the House I include an explanatory statement and the text of my amendment:

EXPLANATORY STATEMENT MEADER SUBSTITUTE: TITLE VI NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Withholding Federal assistance on grounds of discrimination was the most difficult and complex problem with which the Judiciary Subcommittee was faced. Policy was clear, but the expression of that policy in meaningful language was most difficult.

Certainly, Federal assistance can be given with conditions attached. Clearly it is national policy to treat all citizens alike and that policy should be one of the conditions for extending Federal financial assistance, which should not subsidize or perpetuate discrimination.

But to write that policy into a host of Federal assistance programs, differing widely in character, in such a way as to assure that the program would not be disrupted or its legitimate objectives thwarted, is nearly impossible.

The subcommittee sought standards or criteria to govern administrators in carrying out this policy. This effort was unsuccessful. The subcommittee sought to protect recipients against arbitrary decisions by administrators. The limited review under section 10 of the Administrative Procedure Act provided in title VI, hardly meets this objective.

To permit flexibility and yet make certain that the policy of nondiscrimination will be carried out, the most workable vehicle is to require the recipient in advance of receipt of the assistance to enter into a legally enforceable undertaking that he will not discriminate as between beneficiaries of the program on the basis of race or color. This undertaking would be enforced by remedies for violation of contracts.

While we in Congress cannot be familiar with all the details of all of the widely differing Federal assistance programs, the administrators of those programs and the recipients are. They can work out with respect to each differing program precisely what the recipient will or will not do. They can even agree upon sanctions for violations of the undertaking or methods of resolving disputes which may arise. In case agreement or settlement cannot be reached, either party has full access to the courts to settle the dispute.

For a partial list of programs which may involve Federal assistance, see page 2775 of part IV of the committee hearings.

For testimony on withholding Federal financial assistance, see pages 1506–1572 of part II of the committee hearings.

For a discussion of the problems involved, see page 56 of the committee report.

AMENDMENT TO H.R. 7152, AS AMENDED, OFFERED BY MR. MEADER

Beginning with line 3, page 62, strike out everything down through line 15 on page 63, and insert the following:

"SEC. 601. Any executive department or agency of the United States which extends financial assistance in the United States (by way of grant, loan, or contract, other than a contract of guaranty or insurance) shall require, as a condition to the receipt of such assistance, that the recipient assume a legally

enforcible undertaking designed to insure that—

"(1) no person of a class for whose benefit such assistance was primarily intended will, because of his race or color, be excluded from all of or a part of the benefits of such assistance or be extended benefits of a different nature; and

"(2) no such person, otherwise eligible to receive the benefits of such assistance, will be subjected to different treatment because of his race or color than other persons receiving such benefits.

"SEC. 602. The undertaking referred to in section 601 shall contain such appropriate terms and conditions as the head of the department or agency granting the assistance may prescribe. The United States district courts shall have jurisdiction of civil actions brought in connection with such undertakings by either the United States or by any recipient aggrieved by action taken under any such undertaking, but no court shall issue an order or injunction restraining a breach of those provisions of the undertaking which are designed to carry out the policy set forth in paragraphs (1) and (2) of section 601.

"SEC. 603. This title shall take effect one year after the date of enactment of this Act.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CELLER. Mr. Chairman, I oppose the so-called Meader amendment, because it would create tremendous confusion and complexity. It would create for the various agencies all manner and kinds of difficulties. It would deny the much needed flexibility to the Federal agencies to effectuate their nondiscrimination policy in a manner that would be most consistent with the existing pattern of the various agencies.

Title VI, as reported by the Committee on the Judiciary, would allow an agency to adopt a nondiscrimination requirement by rule, regulation, or order. There will be an amendment offered subsequently to the effect that such rule, regulation, or order must be approved by the President of the United States.

The Meader substitute would require that if adopted by a contractual-type undertaking that it be enforced by withholding of funds or suit for damages. No good reason whatsoever appears for denying to an agency the use of its lawmaking powers and its general authority under existing law to effectuate the nondiscrimination policy. I say that with all emphasis because of the amendment which we are going to propose that all rules, regulations, and orders must have the approval of the President.

The gentleman from Michigan [Mr. MEADER] advocates that "we take advantage of past experience to the greatest extent and importance for carrying out policy, well established principles, and methods." He said that on February 1, 1964. In fact, the proposal does the very opposite. The committee version of title VI seeks to preserve to the maximum the existing procedures under which the various Federal assistance programs are administered, including any judicial review provision.

The proposal of the gentleman from Michigan would throw out all these. He would require all agencies to use the method of contractual agreements regardless of whether they now entered into such agreements with aid recipients and regardless of how many parties may be involved in a particular activity receiving assistance. He would also place all judicial actions under title VI in the Federal district court regardless of what judicial review procedures were otherwise available. For that reason I hope his amendment will be voted down.

Mr. WHITTEN. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I would like a reply to this question from the chairman of the committee. As I pointed out earlier, in my State under the Community Facilities Act for quite a long period of months all applications from towns and cities where they had white and Negro populations were either turned down or held up. During that period two community facility loans were made to the all-Negro city of Mound Bayou. Understand all were for such approval. I am asking the gentleman, under the language of his bill, what would be the recourse of the towns and cities in the State who have some Negro and some white population when the executive would approve loans to the all-Negro city but either refuse to give the same privileges which are provided by law to other towns and cities either by nonaction or by actually flatly refusing to approve them? What would be the remedy under the terms of the bill?

Mr. CELLER. We provide that there shall be judicial review. If a city or political subdivision feels that it is aggrieved by the action of any of these agencies it has the right to proceed in the courts under the Administrative Procedures Act.

Mr. WHITTEN. Let me carry the matter one step further. The Government has certified about 10 times as many communities as being qualified as it has available money to meet the qualifying applicants. Since the agency could show that there was not enough money appropriated to approve all of the applications which qualified, could any applicant show that it was not a case of being bypassed because of something else? Under those conditions would they have any rights?

Mr. CELLER. We do not affect that situation at all.

Mr. WHITTEN. So you do not give relief to people who are being discriminated against, as I pointed out. The Federal Government—and this is current, it happened in the last 2 years—either flatly refused or failed to approve any project except to the all-Negro city.

Mr. CELLER. Mr. Chairman, I do not think we should let the record stand the way the gentleman has indicated. If there has been discrimination on account of race, color, or national origin, then the political subdivision aggrieved can go into court under the Administrative Procedures Act and test that action and get redress.

Mr. WHITTEN. There is a mixture of possibilities and a presumption here. First, this is a little in reverse because here the ones who got the loans are the all-Negro city, which was O.K. The ones who did not get approval were those that were not segregated. That is one case. I want to ask about one other example.

Mr. CELLER. Would the gentleman like me to answer that? And I will answer it with a question of the gentleman. Would he not call that discrimination against the white folks if there is undue favoritism to the colored folks? This works both ways.

Mr. WHITTEN. I am glad to have you indicate this could work both ways. That is the first time I have heard such admission in about a week's debate either by the Chairman or anyone else. May I say that these other cities all have Negro population, too. So they are not just white cities. They are cities of population of both races and the discrimination was a failure to give equal rights to that given the city with complete segregation. But, to pursue it one step further. Under the accelerated public works program, the Accelerated Public Works Administration approved a project in Mississippi.

They sent a wire of approval, they had their representative on the plane to work out the operations of the project. The two U.S. Senators from Mississippi on that day voted against expansion of the accelerated public works bill. The agency recalled its approval, canceled its telegram, took its man off the plane. Is there anything in the gentleman's bill that would give protection in that case?

Mr. CELLER. That is purely a political situation.

Mr. WHITTEN. Does the gentleman mean for an agency to cancel an approved project is a political matter?

Mr. CELLER. I probably used "political" in a very wide sense. In the case where the two Senators had protested I think it would be worth while to look into it.

Mr. WHITTEN. The idea would be that the Senators vote right the next time.

If that type of pressure is used without the benefit of the gentleman's law, would you not be afraid to give them the excuse by having a law?

Mr. CELLER. I would not have any fear in what we have provided in that language at all.

Mr. WHITTEN. I would not worry about the gentleman's ability to get his share, but some of the rest of us I do worry about—though may I say this particular problem has been worked out.

Mr. LINDSAY. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, this amendment would throw this whole problem into the context of contract law. The amendment raises the point of whether parties other than those who are parties to the contract may cause the cutoff of funds. Can the United States cut off funds to the distributor of funds who does not discriminate, if the beneficiary does? This is not clear. What about existing programs, what does the amendment do? Does it contemplate renegotiation of existing contracts, or the reformation of those contracts by force of law? I am not at all clear.

It seems to me that the most appropriate procedure for dealing with the

problem to which this section is directed is already provided in the bill and I see no reason to substitute a different procedure.

Mr. MEADER. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from Michigan.

Mr. MEADER. The gentleman knows that the title would not become effective until 1 year?

Mr. LINDSAY. Would not the gentleman wish to cover existing programs? Existing programs cover a big problem.

Mr. MEADER. I think you would have trouble going into things that have already been fixed and rights established. I understand the operation of title VI in the bill likewise to be only prospective in effect. Is it supposed to be retroactive? I hope not.

Mr. HARDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is the first time I have spoken on this bill. I have listened to practically all of the debate. In the beginning I had thought that surely many of the amendments which have been so logically and forthrightly presented would have been approved. Actually there has been no change of consequence in the bill. This has been disappointing to me because to my mind the bill is extremely dangerous. In so many places it impairs or destroys fundamental rights to which every American citizen is entitled under our Constitution.

I have always regarded every American citizen as being entitled to equal rights and equal protection under the Constitution. This does not imply that all individuals are endowed equally by our Creator with mental, physical, or social characteristics. Neither does it imply that, human nature being what it is, every citizen will be fairly treated by every other citizen. The human being always has had a bent toward prejudice and this is a characteristic which does not lend itself to correction through the enactment of legislation.

It would be hard to define the areas in which prejudice or bias is practiced. Sometimes it is because of race or religion, but frequently it can be extremely serious on a geographical basis, such as a feud between people who live on opposite sides of the track, or it may be motivated by selfishness and exploitation just because the individual or group has the power to exercise it. Sometimes persons or groups are taken advantage of because of political bias. At the moment some of us who are opposing this bill have the feeling that the reason amendments which would make it fairer are repeatedly voted down is because of the hope of the proponents of the measure that they may receive some political gain.

We shall never have complete civil equity among our citizens although I agree that we must continue to strive for it. Some people are excused for traffic violations, while others may be fined or jailed for the same offense. In substance it has been argued here on the floor that our judiciary cannot be relied upon to administer justice equally to the defendants who appear before them. It is a sad commentary on this alleged effort to achieve equal treatment of citizens when one of the principal proponents of this measure is said to have stated that he was taught in law school to try to get his case before a favorable judge. Mr. Chairman, to my mind the school which teaches such a philosophy is a discredit to the American system. I cannot believe that any Member of this body would espouse this device to achieve an advantage.

Mr. Chairman, as I said earlier, I have a strong conviction that every citizen is entitled to equal treatment under the Constitution, and I am sure I realize as well as anyone else that in many places it does not work out that way. Citizens are treated unequally in every part of the country, and I am sure that discrimination because of race is practiced in varying degrees throughout the country—not just in the South.

Insofar as my district is concerned, I believe that very little racial discrimination exists today. The poll tax may have had the effect of reducing somewhat the number of qualified voters, but it has been as much a stumbling block for the white people as for the colored. That has now been eliminated insofar as Federal elections are concerned by the recently approved constitutional amendment, which I supported.

The schools in our area have been desegregated, as have many of the hotels and other places of public accommodation. Insofar as employment is concerned I believe there is extremely little evidence of racial discrimination in my community, and, in fact, during the last several years I can show some situations in which actually discrimination has been practiced in the reverse. I could cite one classic example.

This is not to say that there is not still a job to be done—that progress is not still needed. Progress is being made even in those areas where there are still unresolved problems of schools, voting, and of employment.

This bill would impair the rights of every American including the racial groups, which are supposed to be the beneficiaries. In the long run the rights which we will surrender by this legislation will never be recovered and we will have needlessly, and I think unconstitutionally, by this measure turned them over to the Executive.

No Attorney General should be given the power over individual American citizens which he will be given under this bill. No bureau or agency of the Government should be permitted to make the decisions which are provided for Federal appointive employees under title VI. No group of people should be given the potential power of oppression which is contained in title VII.

This is a drastic measure—it is a repressive measure. We have ample laws now on the books and ample court decisions to protect the individual rights of minorities. The only thing we need to do is to make continuing and stronger efforts to speed up fair and reasonable application of the laws already in effect.

Mr. Chairman, if this bill as it is now before us ever becomes law we will have surrendered basic rights which the 10th amendment to the Constitution reserves to the people. These rights belong to the people and we, as Members of Congress, should not and cannot legally transfer them to the Attorney General, or to any other executive agency or department.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to join with my colleague, the gentleman from New York [Mr. LINDSAY], who has properly stated the dilemma that this amendment would cause. It sets up some very unworkable mechanisms.

This title that this committee worked on, as has been pointed out, was worked on harder than any other title. It is good in its present form and I sincerely hope that all amendments, except those amendments offered by the committee, are defeated and that we will pass this title because it will be a useful tool in seeing that Federal funds are spent without discrimination.

Mr. COOLEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have followed this debate with great interest. Everything clearly indicates what the final decison will be. Whether we like it or not, the bill now under consideration will be approved by the House without substantial change. Many clear, cogent, and convincing arguments have been made, but few, if any, votes have been changed. Certainly none of us is blinded by politics. I am convinced, however, that many of the Members of this House are prompted by the impulses of political expediency. I shall not, however, question any Member's integrity, nor impugn any Member's motives. Every Member has a right to his own views and, of course, is free to vote as he pleases. If I thought that this bill was in the national interest I would, of course, vote for it. I am certain, however, that it is not in the national interest, and I shall, therefore, vote against it.

I have never had any prejudice in my heart for any person because of race, color, or creed. I am certain that I have many close personal friends in all the minority groups in our country. Many members of the Negro race are my close personal friends. Many Negroes are my partners in our small farming operation. Negroes attended my wedding, and I am certain many of them will attend my funeral. I have practiced law for many years and throughout the years I have defended Negroes, even without compensation, when they were friendless and alone and accused of high crimes and misdemeanors. No person, regardless of his national origin, can say that I have ever indicated the slightest prejudice against them. My record in this regard is an open book and well known to the people back home. Of course, we have many minority groups in my district and State. I am certain, however, that everyone in my district knows of my interest in their welfare and happiness. In voting against this bill, I am not prompted by political motivations nor am I prompted by evil and unholy impulses. I am convinced that this bill is not in the national interest, yet I understand that

we, of necessity, must face the fact that we have great and grave problems to solve in the field of civil rights.

Mr. Chairman, we cannot, by the enactment of one law, change the habits and traditions of our people, nor can we, by the enactment of a law, force people to change the promptings of their hearts and the views they have had for one hundred years. If we could only proceed with caution much could be accomplished. Intemperate zeal might lead to violence and bloodshed and to many heartaches. I suppose that our late beloved President, John Fitzgerald Kennedy, was the greatest champion of civil rights, but I doubt very much if even he would approve of the bill now under consideration. On last April 17 in his press conference, he commented upon the recommendations of the U.S. Civil Rights Commission which suggested that he suspend or cancel either all or selected parts of Federal financial aid provided for the several States. At that time he said:

I don't have the power to cut off aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another might be moved to another State which has not measured up as the President would like to see it measure up in one way or another. Another difficulty is that in many instances the withholding of funds would serve to further disadvantage those that I know the Commission would want to aid. For example, hundreds of thousands of Negroes in Mississippi receive social security, veterans, welfare, school lunch, and other benefits from Federal programs. Any elimination or reduction of such programs obviously would fall alike on all within the State and in some programs perhaps even more heavily upon Negroes.

I think that few here can deny the close feeling that the former President had for the minority groups; yet by that statement he expressed his feeling that the President should not be given the power that the Commission had asked for in section 6.

The legislation now under consideration is the most far-reaching legislation ever proposed by any Congress in this field to protect the individual rights of our citizens. It does not in fact protect but destroys the rights of our citizens.

The bill on its face states that it provides relief against discrimination. Webster defines discrimination as the act of discriminating the quality or power to finally distinguish; that is, to judge. We have come to consider the right to be discriminating with reference to dress, use of products, and so forth, as a status symbol. This bill denies our citizens the right to use this power to discriminate, but only when it is used in relation to certain segments of our citizens. Nowhere in the bill does it say that hotel owners or employers cannot use their power to distinguish in reference to certain classes of people, such as known criminals, drugs, or freckle-faced people, but narrowly limits it to a context of race or color. If a colored person is denied lodging for any reason and raises a complaint that such denial is based on race or color, it becomes a subject of investigation, when in fact such denial might have some sound basis which will have to be proved.

Nowhere in the bill, however, is this same propertyowner denied the right to refuse lodging to a Caucasian whom he finds objectionable to him for one reason or another. If this law were to be uniform in its application, the propertyowner should be denied the right to refuse public accommodations to any person, but clearly we all recognize that this is an infringement upon the constitutional rights and the property rights of an individual.

Why, then, is this not a denial of the constitutional and property rights of a propertyowner or of an employer by denying him the right of discernment in the narrow area of race or color? I think that it is clear that it is a denial of such rights.

Further, at the end of the Civil War, during the period of reconstruction, Congress in its vindictive effort to punish the South passed legislation very similar to the public accommodations part of this legislation. This law was summarily rejected by the Supreme Court in 1875. That Court decision still remains the law of the land. We are here today attempting to enact legislation that the highest tribunal of our lands has declared to be unconstitutional.

I would be the first to recognize that race or color of skin is a basis for prejudicial discrimination. But can we look in the mind of any man and determine whether his discrimination is based on prejudice or some other basis? Some persons do not like people with red hair because they have had unfortunate experiences with people whose hair is this color. Some people are prone to distrust people who are narrow between the eyes. These are just two examples of the thousands of reasons, sane or otherwise, that people use in reaching their bases of judgment in relation to their fellow man. These people will be wanting legislation to protect their civil rights.

Clearly, if we cannot legislate man's morals, as the Volstead Act proved, we cannot legislate his thinking, and to attempt to do so would be folly on the part of this Congress. The next step, if the reasoning of this bill is followed to its logical conclusion, is to attempt to pass legislation saying that it shall be a violation of Federal law to entertain thoughts that are other than favorable toward a person because of his race or color.

Again referring to section 6, this section has the effect of amending every authorization appropriation act ever enacted by this Congress, and it will be an amendment to every act that will be passed in the future, in that it requires the Federal agencies and departments to take action to effectuate the purposes of this act, and to deny to any State, county, or local government, Federal funds if discrimination is practiced in connection with federally financed programs. Even though this bill deals with discrimination and violations of civil rights, the power to decide whether discrimination is practiced with reference to a Federal program or not will be exercised by some official in our Government.

Efforts have been made and will be continued in the future to improve the lot of the downtrodden of our land. I am in accord with these efforts until they go so far as to infringe the rights or privileges of the vast majority of our citizens. If we have not learned the lesson that we cannot enhance the rights of one citizen by destroying those of another, then it is true that we learn nothing from history.

I agree with the statement made by my friend and colleague, BASIL WHITENER, when he appeared before the Rules Committee and made the following statement:

FARMERS

For more than 30 years, the American farmer has been under Federal regulation in many programs involving financial aid. Whether these regulations have served him well or poorly is a matter of divided opinion. In any event, regulation per se is nothing new to the farmer. But this is a different kind of control. It is not related to the purposes for which the financial aid was rendered.

If this bill is enacted the farmer (regardless of the number of his employees) would be required to hire people of all races, without preference for any race. If experience has taught the farmer that a member of one race is less reliable than a member of another race, does less for his pay, he will no longer be allowed to hire those he prefers for this reason. If he is of the belief that members of one race are more prone to accident, less trustworthy, more neglectful of duties, are, in short, less desirable employees than those of another race, he will no longer be allowed to exercise his independent judgment. Under the power conferred by this bill, he may be forced to hire according to race, to "racially balance" those who work for him in every job classification or be in violation of Federal law.

The penalty for such violation can mean being excluded from every direct and indirect Federal benefit. It can mean the calling of his bank loans, being shut off by blacklisting from the agencies of Government that recruit labor, the right to purchase supplies from farmer-associated businesses which may, themselves, be dependent in one degree or another on Federal financial assistance. In short, he will become an outcast. He will employ those people a Federal inspector says he shall employ or his farm will be deprived of every vestige of Federal aid, without which few farms, today, can successfully operate.

The agencies required to police farmers, under the directions of the Attorney General and the Commission on Civil Rights, are all (1) banks for cooperatives, (2) Federal land banks, (3) Federal intermediate credit banks, (4) production credit associations, (5) the Agricultural and Stabilization and Conservation Service, (6) the Commodity Credit Corporation, (7) the Federal Crop Insurance Corporation, (8) the Agricultural Marketing Service, (9) the Farmers' Home Administration, (10) the Soil Conservation Service, and all other agencies or departments having to do with Federal financial assistance in the field of agriculture.

HOMEOWNERS

The right of homeowners in the United States to freely build, occupy, rent, lease, and sell their homes will be destroyed by this bill. Title VI will be construed by the administration to cover "land to be developed for residential use" and "the sale, leasing, rental,

or other disposition of residential property and related facilities * * * or the occupancy thereof," whenever there is involved FHA or GI financing, financing by a national bank or any bank or savings and loan association covered by the FDIC or any other type of Federal financial support. The quotations are from Executive Order No. 11063, mentioned below.

Federal personnel (not the homeowner or his wife) will make decisions as to the personnel building the home, the renting of a single room or several rooms, as well as the rental, leasing, or sale of the home whenever race, color, or national origin is concerned. Federal personnel will also dictate the actions of realtors, developers, attorneys, and the lending institutions.

What of the right of property? What if the person who seeks to rent a room, lease or buy a home, is not, in the eyes of the homeowner, trustworthy or desirable? If race, color, or national origin is involved—and, by the nature of things, these must be involved—the Federal inspector (not the homeowner or his wife) makes the decision.

The alternative—foreclosure, blacklisting, cancellation of any Federal benefits under any program.

Already, without any legislative authority whatsoever, the President has issued Executive Order No. 11063 dated November 20, 1962, purporting to put all of the above into effect concerning an estimated 30 percent of the homebuilding in the United States. This has been done in spite of the fact that Congress, on six different occasions, defeated amendments to then pending housing acts granting the President authority to so act. If this bill is passed, it will validate that order. Moreover, it will give the President carte blanche to subject every homeowner to Federal control.

BANKS AND BANKERS

A dispassionate study of the power granted in this bill will convince a reasonable person that no bank could operate under its provisions without undue hardship.

If a bank under this bill were to deny employment, a loan, a line of credit or a sales contract to a person, it would have to prove its decision was based on facts that did not, in any way, discriminate against the rejected applicant because of his race. Among the penalties that could be imposed on the bank would be the cancellation of the bank's Federal Deposit Insurance and its right to handle GI, FHA, and other Government-insured money. The power granted in the bill goes further. If a small businessman, for instance, has been held in violation of the Federal civil rights law, under the provisions of this bill the bank can be required to cease doing business with the culprit, or else lose its FDIC protection for all its customers.

To illustrate, assume a bank extends a line of credit to finance construction of an apartment house. Assume a tenant is denied the privilege of leasing one of the apartments because his credit or character, in the opinion of the management, would make him an undersirable tenant. If the Federal inspector decided this amounted to discrimination, the FHA guarantee could be canceled.

The agencies required to police banks and bankers, under the direction of the Attorney General and the Commission on Civil Rights, are all national banks, the Federal Deposit Insurance Corporation, the Federal Reserve System, the Federal Housing Administration, and all similar agencies.

Among the institutions and agencies which would be required to conform to the act and police business and professional establishments are all banks, savings and loan associations, and other financial institutions served by the FDIC or the Federal Reserve System, the agencies administering GI, FHA, SBA, and all other loans and programs involving Federal financial assistance. Withdrawal of protection or credit, foreclosure of loans, blacklisting, and similar sanctions may be expected.

Mr. Chairman, I commend and congratulate my friend, BASIL WHITENER, upon the splendid work he has done and upon the serious thought and consideration he has given to all the provisions of the pending bill. His statement before the Rules Committee clearly indicates his familiarity with the perplexing problems involved in the proposed legislation which is now being considered. Congressman WHITENER has already presented his views to the House and I am certain that all of you will give due consideration to the statements he has made.

For many long days the bill now before us and all of its provisions have been under consideration. Perhaps Solomon could not solve the problems presented to us. We must do the best we can and perhaps even the best will not be good enough. We must deal with the emotions here involved and we should, as I have said, proceed with care and caution in our search for solutions. This is the time for reason and rational thinking. This is not the time for a display of intemperate zeal. No race in all the tides of time has ever made such miraculous progress as has been made by the Negro race. A Negro has every right to be proud of his race and of the achievements of his race.

I believe, Mr. Chairman, that the Negroes of my district are proud of the fact that they are Negroes and they are proud of the achievements their race has made. In my childhood Negro boys were my playmates. We understood each other and we got along well together. We respected each other and there has never been a time when the members of my family were not helpful to and interested in the welfare and happiness of the Negro race.

When my father came to Nashville, my hometown, to practice law, his father, who was a doctor, sent with him a Negro man who was constantly with him until the day he died. No finer friend could be found anywhere else on this earth. Yet there are those who tell us what we should do, how we should think, and how we should act in dealing with members of minority groups.

If the Negroes of my district are grieved, oppressed or discriminated against in any way, they have not complained to me. They are my friends and I am their friend and this I think they well know.

In conclusion, all of our problems must be settled within the realm of reason, tolerance, and brotherly love.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise to support the amendment offered by my colleague from Michigan [Mr. MEADER].

In some of the press reports, every amendment offered to this bill is referred to as a weakening amendment. A thoughtful student studying this particular bill, in my opinion, will conclude that the Meader amendment is actually a strengthening amendment, and those who wish to strengthen this title should support it. I say that because the Meader amendment does not leave discretion with the heads of bureaus and agencies to decide whether and to what extent they may wish to require compliance.

The Meader amendment provides that each agency and department "shall" require as a condition in a contract certain specific requirements.

This is the way that the Federal Government now enforces what amounts to FEPC regulation with respect to industries which are awarded defense contracts. The company enters into an obligation not to discriminate—an undertaking which the U.S. Government requires to be written into the contract and agreed to before an award is made. This now is a normal, logical, and legal way for the Federal Government to deal with this particular subject.

Under the committee bill, each agency head is left with complete discretion not only as to whether he will write and promulgate regulations but as to the kind of regulations he will write, and then he has discretion as to whether or not he will enforce the regulations. He may enforce them in your congressional district but not in the adjoining congressional district, in which case he will discriminate as between politicians. The administration, obviously, can also use this power for political purposes and seek to compel you to vote this way or that way.

I would call attention to the fact that the amendment of the gentleman from Michigan [Mr. MEADER] would permit a recipient of aid, not merely an agency, to bring an action to enforce the contractual undertaking. The Meader amendment may be a weaker amendment in only one respect; that is, it would not take effect for 1 year and would apply only prospectively. I submit that this is a very fair and reasonable provision because, after all, this principle will have a tremendous and far-reaching impact. There is no question about that. And we should provide a year in which adjustments can be made in some areas to this sweeping policy.

I believe it would be well to allow a year's notice, and to apply the policy across the board rather than to give the bureaucrats in each agency the discretion to apply it or not to apply it in this area or that.

I believe the Committee would be wise to strengthen this bill by adopting the Meader amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MEADER].

The question was taken; and on a division (demanded by Mr. MEADER) there were—ayes 24, noes 125.

So the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from North Carolina [Mr. WHITENER].

The question was taken; and on a division (demanded by Mr. WHITENER) there were—ayes 72, noes 152.

Mr. WHITENER. Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. WHITENER and Mr. ROGERS of Colorado.

The Committee again divided, and the tellers reported that there were—ayes 82, noes 179.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WILLIS

Mr. WILLIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIS: On page 63, line 2, insert the following two new sentences at the end of section 602:

"In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall be effective until 30 days have elapsed after the filing of such report.".

Mr. WILLIS. Mr. Chairman, section 602 says that each Federal department and agency which is empowered to extend Federal assistance to any program or activity shall take action to effectuate the provisions of the title.

You will see that it is mandatory that each Federal department and agency shall take steps to effectuate the objectives of this particular title. Someone—a man, a human being, a fallible person—is ordered to do what, and what means shall he take or must he employ to enforce his decision? He does it by determination or refusal to grant or continue assistance under such program.

Suppose he does cut off a program. A single man is doing that. What happens in actuality? I merely repeat my colleague from Louisiana [Mr. BOGGS], in that respect as it would affect my own State. Suppose the agency head would cut out the school lunch program, who actually would he be primarily hitting? He would be hitting all the people, the young people. Then suppose the distribution of surplus food is cut off, who would he be hitting? He would be hitting primarily the persons who are to be protected. Certainly in my State the colored people are the greatest beneficiaries under this program. Suppose he would cut off the welfare program, who would he be hitting? He would be primarily hitting the colored people because they are the primary and greatest beneficiaries.

Suppose he would cut off funds in connection with the highway program, what would happen? In my State we had a recent experience on that. Something like 85 percent of the manpower employed on highways are colored people. So if they cut them off their jobs and if perchance they cut off welfare and the distribution of food, what would happen then, not only aid to colored people but to aid everybody?

My amendment would bring into play other minds in connection with this question of decision to cut off a Federal assistance program. It would bring into play committees of Congress having jurisdiction over the programs under consideration. The head of the agency would have to give a report to the committees of Congress having jurisdiction over the subject matter, so that at least there would be some responsible minds over and beyond the agency head.

Then the last sentence would be that no such action shall become effective until 30 days had elapsed after the filing of such report.

This is a very carefully thought out amendment, it is sensible, and I would hope it might be accepted.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from New York.

Mr. CELLER. The amendment is acceptable to myself and most members on the Committee on the Judiciary.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from Ohio.

Mr. McCULLOCH. I am pleased to say that the amendment is an improving amendment to this title, and I hope it will be agreed to.

Mr. SELDEN. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from Alabama.

Mr. SELDEN. Mr. Chairman, title VI of the civil rights bill gives Federal departments and agencies extending Federal financial assistance practically unlimited powers to dictate the implementation of any and all Federal programs within the States. According to my interpretation of title VI, this could include control over many facets of our daily lives including our transportation and communications systems, hospitals, schools, construction companies, and even our farmers who participate in the various federally-sponsored farm programs. Under the guise of antidiscrimination, this section of the bill is little more than a legislative weapon with which Federal bureaucrats can threaten and bludgeon State authorities into surrender of constitutional powers. If enacted into law, the provisions of title VI can mean either the hampering and breakdown of Federal-State cooperation in joint programs or the wholesale usurpation of State rights by Federal authorities.

The proponents of H.R. 7152 who believe, however mistakenly, that this section will serve the purposes of American Negroes might well consider what other purposes, in the hands of this or any other President, such broad discretionary powers might serve. The amendment offered by the gentleman from Louisiana [Mr. WILLIS] makes a small improvement in another extremely dangerous and ill-advised section of this bill, and I urge its adoption.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from New Jersey.

Mr. RODINO. In other words, the gentleman's amendment would merely state that there is an additional 30 days which the person allegedly discriminated against would have within which to comply without any cutoff of funds? Is that it?

Mr. WILLIS. The amendment speaks for itself. It is two sentences, that the recommendations would have to be submitted to the parallel House-Senate committees having jurisdiction over the subject matter, and that the cutoff could not come until 30 days after the submission of those recommendations.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. In other words, this serves to provide a continuing oversight over the provisions of this title? I think it is a good amendment, and support it.

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LONG of Louisiana. Mr. Chairman, I wish to raise strenuous objections to title VI of this bill, a section which would place in the hands of a Government agency virtual control over the economic life or death of any given region of our Nation.

In section 602, any Federal department and agency which has the power to extend Federal financial assistance to any program or activity would have the right to withdraw those funds to force compliance with section 601; that part of the title which calls for an end to discrimination in any program involving Federal participation.

I am not going to spend a great deal of time of the basic flaw of this title, which should be obvious to anyone. But for those whose judgment may have been swayed by the force of this emotional issue of civil rights, I think I should again point it out. This is, to put it simply, bureaucratic blackmail. This title does not simply give these agencies the right to seek court action because of some alleged violation of the contract under which the funds were granted—it gives the agency the right to withdraw those funds, with what amounts to a "cease and desist" warning before the withdrawal takes effect. Not only does the title allow these unknown bureaucrats to wield this power, unchecked by the Congress; it sets no standards by which proof of noncompliance can be judged.

In the case of our welfare programs, for instance, which receive large amounts of Federal funds; under this proposal, the agency—presumably the Department of Health, Education, and Welfare—could make a determination that some form of discrimination exists in a portion of the State system. According to this title, some unknown person in that Department could issue a warning to the State officials, wait a couple of days, then cut off all funds.

There is certainly nothing in the wording of the act to say who shall make this decision; and no standard to establish how this faceless and nameless person shall decide that compliance cannot be secured by voluntary means.

This complete lack of standards violates every precedent, and it certainly should offend any Member of Congress that reads it.

This title, in effect, puts a price tag on every Federal program and says, if you do not dance the proper tune, you will have to pay the piper. If that is not blackmail, I do not know what it is.

This is an alarming precedent, and an insult to the people of the United States.

We have laws, gentlemen, which have been formed over nearly 200 years of compromise and debate. To each one of those laws you are being asked to add a clause which says:

If, in the opinion of unknown persons in the Government, you have used Federal funds in a program which in any way discriminates against any group, said unknown person can warn you to desist and, after an undesignated period of time, take away those funds.

The fact that an ex post facto right for judicial review is held out as a mild protection does not alter the dangers and the insolence of this measure.

Mr. KASTENMEIER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise reluctantly on this occasion. As a member of the subcommittee that considered this legislation, I have sat here silent for the last 7 long legislative days on this matter. I am only sorry I did not speak sooner last night with relation to what was done on title V.

I rise in opposition to this, and think that perhaps some members of the committee conceded too much at least in this amendment, because this is obviously an open invitation, certainly, to every committee chairman from the South to call on the carpet every agency head or department head who has the temerity to file a report with him cutting out funds for any area in his State or any adjacent State. We know this would result. I think what this amendment does is render this full title ineffective. For this reason, I would urge the Committee to reject this amendment.

I am sorry that the Committee last night saw fit, also, to make the permanent section of the Civil Rights Commission now impermanent and temporary again for a period of 4 years. This I think is unfortunate. I think we should resist some of these amendments. These are not clarifying or technical amendments.

In fact, this amendment is not truly a safeguard but really again will be a question of congressional dominance over the timorous executive branch in connection with an area of legislation which is very important in terms of administration.

Actually, in the Committee on the Judiciary there was a proposal to make the program mandatory and not discretionary as it now is. For the very reason that administrative and department heads would scarcely have the courage to implement this title unless it were required of them.

This is a further invitation not to implement the program, and I think, Mr. Chairman, this amendment ought to be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. WILLIS].

The question was taken; and on a division (demanded by Mr. KASTENMEIER) there were—ayes 129, noes 21.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. LINDSAY

Mr. LINDSAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LINDSAY: On page 62, line 17, after the words "is taken" insert "no such rule, regulation or order shall become effective unless and until approved by the President".

The CHAIRMAN. The gentleman from New York [Mr. LINDSAY] is recognized.

Mr. LINDSAY. Mr. Chairman, this amendment is designed to require that the President shall approve rules and regulations that are promulgated pursuant to section 602 of title VI.

I believe this amendment will be accepted by the chairman of the Committee on the Judiciary and the ranking minority member. The members of your committee feel that the rulemaking power is so important in this area and can be so significant because of the latitude that this title by definition has to give to the executive in drafting rules and regulations that the Chief Executive should be required to put his stamp of approval on such rules and regulations—after, of course, the normal procedures have been followed in promulgating such rules and regulations.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the chairman of the committee.

Mr. CELLER. As chairman of the Judiciary Committee, I approve the amendment of the gentleman from New York.

Mr. LINDSAY. I thank the chairman.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from Ohio.

Mr. McCULLOCH. The amendment is an acceptable amendment to us.

Mr. SMITH of Virginia. Mr. Chairman, I should like to have a brief explanation of what the amendment would do.

Mr. LINDSAY. I yield to the gentleman from Virginia.

Mr. SMITH of Virginia. I thought the gentleman had yielded the floor.

Mr. LINDSAY. I had not yet yielded the floor. If the gentleman would like the floor on his own time, I shall be glad to yield the floor.

Mr. SMITH of Virginia. No. I should merely like to have a more clear idea as to what the amendment would do.

Is it the gentleman's thought or intent that the President shall personally approve every regulation that is made under this regulatory power?

Mr. LINDSAY. No, it is not.

Mr. SMITH of Virginia. What would it do, then?

Mr. LINDSAY. Pursuant to title VI, rules and regulations will have to be promulgated, as the gentleman will note on lines 14 and 15 on page 62 of the bill. The rules, regulations and orders there required, which will have to be promulgated according to standard procedures, with hearing and the rest, would have to be approved by the President of the United States.

Mr. SMITH of Virginia. Then he would have to approve every one of these regulations personally.

Mr. LINDSAY. No; I did not say that.

Mr. SMITH of Virginia. I thought the gentleman did.

Mr. LINDSAY. The rules and regulations will be promulgated, and will have to be promulgated as indicated on the lines 14 and 15 as I have mentioned, and are to be approved by the President of the United States if they are to be effective.

Mr. SMITH of Virginia. Did the gentleman not just say they had to be approved by the President?

Mr. LINDSAY. That is correct.

Mr. SMITH of Virginia. Then what does that mean? Would he have to approve them or would he not have to approve them?

Mr. LINDSAY. I refer the gentleman again to the language to which I referred, on lines 13 through 17 of page 62.

Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

It is those rules, regulations, or orders of general applicability the President would be required to approve. Very plainly stated.

Mr. SMITH of Virginia. Perhaps so. I still do not understand what the President would have to do, but I am happy to see any amendment agreed to by the gentleman from New York [Mr. CELLER] and the gentleman from Ohio [Mr. McCULLOCH], so I am disposed to go along with it. I only wish I could get them to agree on my amendment to prohibit slavery.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, I am inclined to feel that the amendment is constructive in nature. I inquire, for the sake of the public: How will the President document his approval of the orders and regulations? Will his approval appear as an Executive order? Will it be published in the Federal Register?

Mr. LINDSAY. It will be published in the Federal Register.

Mr. POFF. I thank the gentleman.

Mr. JONES of Missouri. Mr. Chairman, I move to strike out the last word, for the purpose of clarifying the statement of the gentleman from New York.

I should like to have the attention of the gentleman from New York [Mr. LINDSAY].

It seems, after you offered your amendment, you started wiggling around. I will read what the amendment says. I got a copy from the Clerk's desk. It says:

No such rule, regulation or order shall become effective unless and until approved by the President.

Does it mean that the President has to approve every rule before it will become effective?

Mr. LINDSAY. That is correct; if it is applicable to this title and is of general applicability.

Mr. JONES of Missouri. The amendment says:

No such rule * * * shall become effective unless and until approved by the President.

Mr. LINDSAY. That is correct.

Mr. JONES of Missouri. Is that not what the amendment says?

Mr. LINDSAY. That is correct.

Mr. JONES of Missouri. You ought to be able to answer the question "Yes" or "No."

Mr. LINDSAY. It must be a rule, regulation, or order of general applicability. If it is not a rule, regulation, or order of general applicability, I would assume that the President would not have to put his approval on it.

Mr. JONES of Missouri. The "such" refers back to that, but you were trying to wiggle out of it in the discussion of the amendment.

Mr. LINDSAY. Then, vote against the amendment if you do not like it.

Mr. JONES of Missouri. No. I am like Judge SMITH. I want to do anything I can to improve this thing. Of course, I will vote against the bill.

Mr. LINDSAY. If the gentleman will yield further, I am sure he is trying to improve it, and we appreciate it.

Mr. JONES of Missouri. I am trying to make it "less worse."

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LINDSAY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CELLER

Mr. CELLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CELLER: On page 62, line 11, strike the words "contract, or loan" and insert in lieu thereof the following: "loan, or contract other than a contract of insurance or guaranty".

Mr. CELLER. The purport of the amendment is to eliminate all guarantees programs of the Federal Government, all insurance programs of the Federal Government. In other words, title VI would have no effect, if you accept this amendment, on guarantees or insurance. Fears have been expressed by a number of the Members as to the meaning of the word "contract" in the bill before you. The word "contract," it was feared might be stretched to cover insurance or guarantee. To prevent such construction we offer this amendment. I say "we" because I cleared this amendment with the gentleman from Ohio [Mr. MCCULLOCH], before offering it. In other words, we nail down the prohibition. We allay all fears that, for example, actions under the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Housing Administration insurance programs, or any other Federal insurance and guarantee programs are included in the bill. They are excluded because they involve guarantees and insurance. In order to make crystal clear that guarantees and insurance are not in title VI we are offering this amendment, and only contracts not connected with insurance, not connected with guarantees are included.

Mr. MCCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Ohio.

Mr. MCCULLOCH. Mr. Chairman, I am glad to join with the chairman of the committee in his explanation of this amendment to make certain the meaning of the bill. It is a needed restrictive amendment and ought to be agreed to.

Mr. POFF. Mr. Chairman, will the gentleman yield to me?

Mr. CELLER. I yield to the gentleman from Virginia.

Mr. POFF. For the purpose of legislative history, will the gentleman say the amendment is intended as drafted to cure the problem which I addressed on page 379 of the hearings before the Committee on Rules?

Mr. CELLER. I do not remember it precisely, but I will take the gentleman's word for it, because I have always found the gentleman to be thoroughly careful in his remarks and I am sure what he says is accurate.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. CELLER. I yield to the gentleman from Michigan.

Mr. O'HARA of Michigan. Would the gentleman please make it clear as to whether or not the amendment he offers, if adopted, will in any way affect the authority now being undertaken under President Kennedy's housing order affecting the operations of the FHA?

Mr. CELLER. No, sir. It has nothing to do with it.

Mr. O'HARA of Michigan. I thank the gentleman.

Mr. SMITH of Virginia. Mr. Chairman, will the gentleman yield to me?

Mr. CELLER. Yes. I yield to the gentleman from Virginia.

Mr. SMITH of Virginia. I am a little bit unclear as to what language you are putting in.

Mr. CELLER. The amendment reads as follows:

On line 11, page 62, strike out the words "contract, or loan" and insert in lieu thereof the following: "loan or contract other than a contract of insurance or guarantee".

Mr. SMITH of Virginia. That clarifies it very much; insurance is a contract.

Mr. CELLER. Yes.

Mr. RYAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. RYAN of Michigan. Mr. Chairman, I want to make it doubly crystal clear to the extent that private homes that are covered by FHA and VA loans will not be covered by the terms of this act.

Mr. CELLER. They will not be.

Mr. RYAN of Michigan. Mr. Chairman, I wish to make it very explicit and without there being any doubt whatsoever, that any person or persons owning real estate, whether it be a private home, an income, or flat or apartment, or a farm, that may now be encumbered by a mortgage insured under the Federal Housing Act, the Veterans' Administration, or other Federal agency, or which may in the future by encumbered by an FHA mortgage or VA mortgage, are not included and do not come within the provisions of title VI; that title VI simply just does not apply to private property with a mortgage insured under the Federal Housing Act, the Veterans' Administration, or other Federal agency.

Mr. WELTNER. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. WELTNER. Mr. Chairman, I had prepared an amendment of similar import to this. I am happy to see that the committee has proposed a diminution of the scope of this act to this degree.

Mr. JONES of Missouri. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I should like to ask the chairman of the committee a question. He did not mention Veterans' Administration loans or contracts. Were they included?

Mr. CELLER. Any direct aid is not involved in this. A veteran would get direct aid from the Government and is not covered by title VI.

Mr. JONES of Missouri. I had a VA housing case and I have been trying to get to the floor, to call attention to a situation that has arisen with a constituent of mine who is a GI, who owned a home in Las Vegas, Nev. He had been transferred to Florida and had made arrangements to sell his home to another GI. The Veterans' Administration had entered into an agreement that they would loan the money for this home. After he had gotten his appraisal, and everything seemed to be in order, someone discovered that there was a racial restriction clause on the property. The Veterans' Administration in answer to my inquiry wrote me a four-page letter telling me that the racial restriction laws under the decision of the Supreme Court were of no effect and nonenforcible and they should not affect this case. They were willing to guarantee the loan except that if it was foreclosed they would not pay any money. That is under the present law. Those are some of the things that I was fearful of under this bill. What I am trying to find out is whether under the amendment the gentleman has offered the exclusion he has indicated, this kind of loan would not be affected by any race or color restriction or anything of that kind.

Mr. CELLER. I would say this. If it involves Veterans' Administration insurance or Veterans' Administration guarantee it is not covered by title VI in any sense or form.

Mr. JONES of Missouri. Would the gentleman be so kind as to tell me if he thinks that it is covered under the present law.

Mr. CELLER. Mr. Chairman, I did not understand all of the nuances or details of the case the gentleman referred to. I just could not hear them all.

Mr. JONES of Missouri. I am not going to take the time of the Committee nor the gentleman's time to repeat them, but I am going to send the gentleman a copy of the letter that I received.

Mr. CELLER. If the gentleman wishes me to review the situation, I will be glad to do so.

Mr. JONES of Missouri. I thank the gentleman very much. I had written to the Veterans' Administration in an effort to help this GI who was losing his equity in his home. The Veterans' Administration had taken the position that the Supreme Court had said that the racial restriction would be of no force and effect, could not be enforced; but still they could not in effect guarantee the loan.

Mr. CELLER. Does the gentleman wish a legal opinion? I will be glad to get the staff of the Committee on the Judiciary to give it to him.

Mr. JONES of Missouri. I thank the gentleman.

Mr. CORMAN. Mr. Chairman, I rise in support of the pending amendment. The amendment would make absolutely clear the intention of the Congress that the authority conferred by title VI and the actions required by title VI, do not apply to programs of insurance and guaranty. Title VI will not affect such programs. It will leave the situation as to them just as it is now. In the field of housing, the President, by Executive order, has already acted to require that racial discrimination be eliminated. That action rests on authority other than title VI, and that action will not be affected by the adoption of title VI as amended by this amendment.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

I wish to ask a question of the chairman, if I may, to be sure of some things. The housing order of the Chief Executive of November 1962, is still in effect. That will not be affected by this amendment? Is that correct?

Mr. CELLER. Yes. Title VI has no effect over Presidential orders.

Mr. RANDALL. This amendment covers VA, FHA, and FDIC, and the words "other than a contract of insurance" takes out or eliminates from inclusion in title VI these three agencies?

Mr. CELLER. That is it.

Mr. RANDALL. I thank the gentleman. The reason for my concern is that a substantial portion of my congressional district consists of a suburban area containing countless subdivisions of homes that have been developed within the past few years and have been financed by loans that are federally insured. Without going into great detail I could not go home and face my people after the passage of this bill if there was any doubt as to whether title VI would affect veterans' housing or FHA housing. Mr. Chairman, there have been so many doubts and uncertainties as to some parts of this bill that in title VI now under consideration, I am glad to have the opportunity to participate in this effort to make it crystal clear and leave no room for the slightest doubt that any person owning real estate whether it be a private home or other real estate, that may now have a mortgage or which may in the future become encumbered by an FHA or VA lien, are not included nor will they be subject to the provisions of or in any way come under title VI of H.R. 7152. In other words, title VI just will not apply to private property that has a mortgage, even though it may be insured by FHA or VA. I am glad to have the opportunity with the concurrence from the chairman of the Judiciary Committee to provide this clarification in the nature of legislative history.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. CELLER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CRAMER

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER: page 62, line 17, after "taken," insert "after an adjudication and decision, under the provisions set forth in the Administrative Procedure Act, by such Federal department or agency that section 601 has been violated,".

Mr. CRAMER. Mr. Chairman, this is an amendment that I think would help the bill, and is a constructive amendment offered solely to require or conform the action taken by the administrative agency, whichever one it may be, to the Administrative Procedure Act. And right here it is. The Administrative Procedure Act customarily must be conformed to by agencies who make decisions with relation to the rights of citizens and otherwise.

This title is drafted purposely and intentionally to avoid the necessity of the agency that makes the finding of discrimination in the first place, ever having to hear or notify the party involved, or the agency of the State involved, to the effect that they are in the process of making this determination.

Listen to this basic law. I say there should be some provision for hearing, some right of the party, on the question of the finding of discrimination, to be heard by the agency and before the agency. You are violating the basic constitutional right of everybody whose alleged discriminatory acts are being decided. You are violating the basic constitutional right of every agency involved within the State, be it school board or otherwise, in that they have no right to be notified, they have no right to be heard on the basic question of, Is there discrimination? I say that advisedly.

Let me read to you from this case that is quoted in the administrative law text, with regard to the Administrative Procedure Act. It is the principle of this act that is being violated unless the pending amendment is adopted. You are interested in civil rights. Let us be interested in civil rights of everybody meaning the party who is supposedly discriminating. Does he not have the right to be heard?

Here is what you are violating without this amendment:

It is elementary also in our system of law that adjudicatory action cannot be validly taken by any tribunal, whether judicial or administrative except upon a hearing wherein each party shall have opportunity to know of the claims of his opponent, to hear the evidence introduced against him, to cross-examine witnesses, to introduce evidence in his own behalf, and to make argument. This is a requirement of the due process clause of the fifth amendment.

Look at page 62, line 14, "order of general applicability". That is unusual language in legislation, in my opinion; "order of general applicability." That means you issue a nationwide order. To anybody who violates it, the administrative agency says, "You violated that. We have found that you discriminated." The agency does not at any time have to even hear or give notice to the party who supposedly is doing the discriminating before they issue the order saying, "You members of the school board, you, the administrator of this hospital, you are guilty of discrimination." The only remedy they have under this is not to be heard in the first instance but to come in later and request a partial—and I am going to discuss that in my next amendment—a partial review by the court under the Administrative Procedures Act. This violates the constitutional rights of everybody. If we want constitutional rights for those who it is being claimed are being discriminated against, why not give the parties a right to be heard according to the Constitution?

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Does it not seem reasonable to anticipate that the rules, regulations or orders of general applicability that were drawn in this matter would provide for notice, would provide for an opportunity to be heard on this subject? Does the gentleman really think that the President would approve a cutoff and have it sent up here to the Congress with a 30-day notice without having some of the elementary safeguards in the way of notice to the agency as a part of the case?

Mr. CRAMER. I am delighted the gentleman agrees with my basic thesis, and I appreciate the gentleman's contribution. I know the gentleman is sincere in making it, and I know the gentleman by his question evidences equal concern with that which I have that the party should be entitled to be notified and heard on the question. But I am not willing to rely on whether or not the President, in his discretion, or the agency in its discretion, might do this. It is the duty of this Congress to write into the law what they want the agencies to do, and certainly where a constitutional right is involved, to be notified and to be heard before an order issues that you have discriminated. It should be written in.

I felt initially that maybe the Administrative Procedures Act was applicable without so specifically providing, but after reviewing the matter very carefully, after studying the Administrative Procedures Act, which I have in my hand, I find that is not the case. Therefore, all I am doing is what the gentleman from Oklahoma suggested should be done by writing it into the statute. Who could object to that, Mr. Chairman?

Mr. CELLER. I do.

Mr. CRAMER. Will the chairman indicate why?

Mr. CELLER. In my time I will.

Mr. CRAMER. Will the chairman answer this question, then? Does the chairman agree that the administrative procedures of hearing and notification are not specifically provided for in title VI as presently constituted?

Mr. CELLER. There is no need for language like that and no evidence was adduced at the hearings requiring anything of the nature of the amendment the gentleman has offered.

Mr. CRAMER. Does not the distinguished chairman, the gentleman from New York, recall, however, that in the deliberations on this title, although it was in a different form as the administration proposed and as the subcommittee voted it out, it did contain similar language which did not provide for hearings? Did not the gentleman from Florida raise the question and discuss the question and indicate in the subcommittee that no hearings were available?

Mr. CELLER. Of course, the gentleman from Florida can remember what he did better than I can.

Mr. CRAMER. I am rather surprised at my distinguished chairman's indifference on this constitutional right.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from Florida has for its purpose the establishment of uniform internal procedures, and I fear me it would put all these agencies in a sort of straitjacket. Every agency has a different purpose. The agencies cater to different demands. There could not be and there should not be absolute uniformity such as is involved in the gentleman's amendment which would require a uniform formality of procedure irrespective of the need for the particular grant or the particular law.

The purpose of title VI is certainly not to set up uniform inflexible procedures and there should be no fear—and there is no evidence of fear—that whatever procedures now prevail in the agencies or that may be adopted in the future by the agencies will contravene the principles of the Administrative Procedure Act because, in addition, we provide for appropriate judicial review and thereby we insure that the principles of the Administrative Procedure Act would prevail.

Mr. Chairman, for these reasons I hope the amendment will be voted down.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time to ask some questions and I should appreciate it if the chairman of the Committee on the Judiciary could enlighten me as I try to weigh the merits of the pending amendment. I am interested in determining the scope and meaning of the judicial review which purports to be available under the language in this title. I ask the chairman whether there would be any guarantee, without the Cramer amendment, that there will be a hearing on the record for a court to review.

Mr. CELLER. Under the Administrative Procedure Act, there is the principle of substantial evidence. That is the rule that prevails when there is an appeal taken from any agency decision. The Administrative Procedure Act was set up originally by the Committee on the Judiciary after many, many years of study.

Mr. GRIFFIN. If the distinguished chairman of the Committee on the Judiciary would not use too much of my time, may I say he has not answered my question. I understand the substantial evidence rule which applies when the court reviews the record of a hearing by an administrative agency. My question is whether there is any guarantee under the language of this bill that a hearing on the record will be held.

Mr. CELLER. No, there is nothing like a trial de novo.

Mr. GRIFFIN. I thank the gentleman. The chairman has answered my question.

Mr. CELLER. You could not expect agencies to function properly and expeditiously if this amendment is adopted.

Mr. GRIFFIN. Now then, a question of fact will be faced over and over again—that is, do the facts in a particular situation constitute noncompliance with an order or with the provisions of section 601—this is a fact determination which should be based on evidence. Let me ask the chairman if there is any requirement under this bill of a hearing on the record before any agency. If not, is there any entitlement that the court would hold a hearing on the evidence and make a determination of facts—in other words, a trial de novo?

Mr. CELLER. The court could ask for more evidence if it wishes. The court to which the appeal is taken can say, "We want more evidence"—and more evidence would be supplied. If the evidence is not supplied, it would judge accordingly. The court could send the case back to the administrative agency to take more evidence, which is done very frequently.

Mr. GRIFFIN. But what if there has not been a hearing in the first place? That is just what the gentleman from Florida is trying to write into the bill. If there has not been a hearing before the agency, there would be no hearing on the record for a court to review.

Mr. CELLER. There is a record and the record is clear. These cases have gone to the administrators under the Administrative Procedures Act to the courts of appeal and to the district courts and for many, many years these questions have never been raised. Why do you suddenly raise these questions from left field now when it comes to a matter as important as this? I cannot conceive why.

Mr. GRIFFIN. I thank the Chairman for his answer to my question.

It is disturbing to me that the House is about to reject, out of hand, an amendment like the amendment of the gentleman from Florida [Mr. CRAMER], which would simply require that an agency should hold a hearing on the record when it is going to make a determination of fact and find that there has been noncompliance. If such a hearing is not required, then there will be no record and the judicial review which purportedly is provided for in the bill will be meaningless so far as fact determinations are concerned. The extent of the review will be confined to questions of law such as whether the agency has exceeded its authority and interpretation of the law, but there could be no review of the fact determination. A determination of fact would, of course, be the crucial question in most of these cases.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield to the gentleman from Virginia.

Mr. POFF. I shall be glad to comment, as one member of the committee on this side of the aisle. It is not true that there would not be a record on judicial review; but the record which would be before the court on judicial review would be an ex parte record only.

Mr. GRIFFIN. I see.

Mr. POFF. It would be one compiled by the agency which entered the order, which took the action, and to which the party about whom the complaint was made was not privy.

Mr. GRIFFIN. These would have no opportunity to present the other side of the case.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. GRIFFIN. I yield.

Mr. CRAMER. Of course, the gentleman has a similar case, does he not, in consideration of the FEPC measure before the Committee on Education and Labor? There was some provision made in that, was there not, for such hearings, and a proper review was attempted.

The review provisions of the Administrative Procedure Act specifically turn on the basis of whether or not there was "an adjudication and a hearing."

There is no provision for a hearing in this title, and, therefore, a proper review would not be triggered.

Mr. FLYNT. Mr. Chairman, I move to strike out the requisite number of words.

I take this time to ask the chairman of the Judiciary Committee whether the chairman of the committee contemplates that ex parte orders and ex parte hearings would serve as the basis for the judicial review which is referred to in section 603.

Mr. CELLER. There is nothing of an ex parte nature in those provisions. Nothing is intended along those lines.

Mr. FLYNT. Then I ask the chairman whether he would agree to the statement made by the gentleman from Florida in support of his amendment that the only purpose for this amendment is to guarantee the right of a hearing and to prevent an ex parte proceeding.

Mr. CELLER. No; that is not the case. I would say that the purpose of the amendment of the gentleman from Florida is to delay proceedings and to do everything other than to expedite proceedings. It would clutter up the record. It would be contrary to the ordinary procedure that is followed in an administrative agency.

This is novel and new. The gentleman cannot show me any other case in

which this could happen. The Administrative Procedure Act has been applied. It is fair. It is equitable. It is just. We would follow the Administrative Procedure Act to the letter in these provisions.

The gentleman wishes to change all that. Probably he has a particular reason of his own for wishing to do so. He is opposed to the bill and he wants to clutter up this record and to clutter up this section so that we cannot have expeditious action.

That is the way I put the situation.

Mr. FLYNT. Mr. Chairman, I most respectfully disagree with the statement of the chairman of the Judiciary Committee. I should like to ask him, most seriously, whether he considers any rebuttal to any complaint which might be made to be a mere cluttering up of the record.

Mr. CELLER. Rebuttal can be made, and provision is made under the Administrative Procedure Act for rebuttal.

Mr. FLYNT. Mr. Chairman, I say to the chairman of the Judiciary Committee that that is not included in any language in title VI. We feel it is necessary, if the person complained against is to have an opportunity, that the person complained against be given a right to be heard in the administrative proceedings, because under the provisions of the Administrative Procedure Act unless he is heard before the administrative agency he will be forever barred from presenting any facts in support of his side of the case. Will not the chairman of the Judiciary Committee agree with that?

Mr. CELLER. No; I cannot agree with that because we specifically mention the Administrative Procedure Act and all of the provisions of that act are embraced in this bill by specific reference. On page 63, line 13, we mention the Administrative Procedure Act.

Mr. FLYNT. Mr. Chairman, I must respectfully state that the judicial review contemplated in section 603 is absolutely meaningless unless the party complained against has the right to be heard in the administrative phase of the proceeding.

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield to me?

Mr. FLYNT. I yield to the gentleman from Michigan.

Mr. GRIFFIN. I have the Administrative Procedure Act in my hand and I have been studying it. Section 10 of the Administrative Procedure Act spells out the scope of the judicial review provided and refers back to previous sections which have to do with hearings. Section 5 of that act, dealing with the kind of hearing and notice and so forth, refers to every case of adjudication "required by statute to be determined on the record after opportunity for an agency hearing," and so forth. In other words, if there should be no statutory requirement of a hearing in this civil rights, then I doubt that the Administrative Procedure Act would confer any right to a hearing. The scope and the extent of the judicial review available is determined thereby.

Mr. FLYNT. I thank the gentleman from Michigan for his contribution, and I would just like to add in context with what the gentleman from Michigan [Mr. GRIFFIN] just stated that there is absolutely no provision for any hearing and possibly for no proceeding of any kind contemplated under section 602 as it now appears. Unless the amendment of the gentleman from Florida is adopted there may never be any record upon which the court could consider anything except a one-sided record made only by the person who filed the complaint.

Mr. FLYNT. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Florida.

Mr. HALEY. May I say to the gentleman from Georgia that in the atmosphere prevailing here in this Congress today I do not think that we could pass and attach to this bill even one of the Ten Commandments. The gentleman is well aware of the fact of the various pressures that have been on this Congress. Let me say this to the gentleman: If this gallery here and some of these vultures that are controlling votes in this House or at least calling the turn on them were taken away from here and this closed up, I do not think you would have 25 votes for this monstrous bill you are foisting off on the American people.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Florida.

Mr. CRAMER. I plead to my colleagues, in the name of the Constitution which this bill is supposed to protect, my objective is to uphold the Constitution as it relates to the due process clause of the fifth amendment. The law school that I went to—and I am sure they all teach the same thing—says a man should be presumed innocent until proven guilty. Yet we have an order that has been issued without the person aggrieved and discriminated against being given even an opportunity to be notified, let alone to be heard.

The language as written says it will provide for the denial of any of the benefits which are provided under any acts of this Congress that are in effect today by an ex parte order of any administrative agency of the Federal Government.

Mr. BROMWELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to address a question to the chairman of the committee if I may. This is the question. Are there any other Federal programs which are drafted in similar language to this that are outside the scope of the Administrative Procedures Act?

Mr. CELLER. Do I understand the gentleman's question to be whether this proceeding is outside the scope of the Administrative Procedures Act?

Mr. BROMWELL. The point which was made by the gentleman from Michigan is that the judicial review provided for in section 603 is meaningless unless the requirement is included in 602; in other words, what is to be reviewed must be set up in 602 to have the provisions of 603 mean anything.

Mr. CELLER. The record is made and goes to the court. If the court feels that there is insufficient evidence the court may remand the case back to the agency for additional evidence. The agency may have an additional hearing and obtain more evidence. Then the case would go back to the district court or whatever court is going to determine the case and make a decision, affirming or rejecting the decision of the agency. This is the procedure that has been followed or is usually followed with all the agencies.

Mr. BROMWELL. Is there any question in the gentleman's mind that this procedure would be followed under this act?

Mr. CELLER. I think it should be followed. The rule is ample and it would afford justice to all parties.

Mr. BROMWELL. As I understand the purport of the amendment of the gentleman from Florida it is simply to make certain that this procedure is followed and that there is a hearing and provision for review.

Mr. CELLER. There is a hearing. The way it is worded now there is a hearing. But the gentleman from Florida wants to go beyond that. He wants a hearing in a court, just as if it were a damage suit, something of that sort.

Mr. BROMWELL. He wants to afford a hearing for both sides of the question. He does not want an ex parte hearing, as I understand the meaning of his amendment.

Mr. CELLER. Under the procedure we have here both sides would be heard. There would be no prohibition against either side.

Mr. BROMWELL. Before the order issues?

Mr. CELLER. At the hearing itself.

Mr. BROMWELL. Not before the order issues?

Mr. CELLER. No, after the order. The complaint is made to the agency and the agency will hear the complaint.

Mr. BROMWELL. The purport of the gentleman's amendment is to make sure that both sides are heard before the order issues.

Mr. CELLER. If you are going to have protracted trials it would be a long time before the order of the agency issued. You would hold up the whole procedure.

Mr. BROMWELL. The thought occurs to me that unless this amendment is adopted, we may gum up the whole bill by leaving out those provisions which would sustain it on constitutional grounds.

Mr. CELLER. I must respectfully differ. All we do here is what we have done in all agencies. We treat them all alike. We provide sufficiently for relief to a party aggrieved. In all the agencies, Federal Communications Commission, Federal Trade Commission, we provide in the Administrative Procedure Act for a review to the party aggrieved, to the court on the basis of the record that has been made. That is exactly what we do here. This is fair and evenhanded justice and anything else, along the lines of the amendment of the gentleman from

Florida would be the very antithesis of fair and evenhanded justice.

Mr. BROMWELL. In my opinion you would have more fair and more evenhanded determinations if the amendment were adopted.

Mr. MEADER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am torn between two desires on this amendment. I would like to support the gentleman from Florida [Mr. CRAMER], and especially my friend from Michigan [Mr. GRIFFIN] who spoke effectively for my amendment recently which, unfortunately, did not get very much attention or support here in the committee.

I agree with the principle that they are standing for; namely, there should be a proper record upon which a proper review could be made. It is meaningless to provide a review on a record on which some administrator has concluded that some person has been discriminated against, and therefore the funds are cut off without detailed facts and reliable evidence.

There is no requirement in title VI of the committee bill that there be a record, therefore a review does not mean very much.

It was this problem that is now haunting the committee which prompted me to suggest a completely different type of proceeding. I suggested we provide that in each program a contract be negotiated and entered into by people who knew the details of the program, who could identify how and where discrimination might occur in that particular program, and make an enforceable agreement that no discrimination would occur. If it did, instead of getting a bobtailed review, they would use established methods of settling disputes.

The reasoning on the other side is that we do not know what programs will be covered in this title. There may be some rather small research programs. Are you going to have that administrator, who is supposed to grant money for scientific investigators to find the cause and cure of the ills of man, spend all his time making a record of some kind? Probably few of the people administering these programs are lawyers, and are likely never to have heard of the Administrative Procedure Act.

I am afraid that the procedure under the Administrative Procedure Act amendment would impose on Federal assistance programs a burden of redtape so great and time consuming that it would bog the program down and would not get anything done except litigation.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I ask the gentleman, it says such action may be taken. Then it may be made effective by termination of or refusal to grant or to continue assistance under such program or activity, and so forth.

Then it says it shall not be acted upon until the person affected has been notified. Then it says it shall not be actually effective until the agency head has convinced himself.

If I read the language correctly, there is nothing in this that would prevent the whole occurrence from taking place by telephone. There is not a thing in the whole section that says there has to be a word of writing. If you want to cut off the financial assistance, just do not sign the checks. If you are dissatisfied with something else you can just tell him he will not get the check. All of this review in this section could take place by telephone or by personal visit. Am I correct? Can you point out a single place that requires an affirmative written statement of any kind in that section?

Mr. MEADER. I will say that the gentleman from Louisiana [Mr. WILLIS] offered an amendment which required the agency before the shutoff took place to send to the appropriate legislative committees of the Congress a full report. I do not know how full that is going to be, but that certainly ought to be in writing. I believe the Willis amendment required a written report, with reasons.

Mr. WHITTEN. That report could be handled by telephone; a full report of what actually happened.

Mr. MEADER. I would not believe any report like that would satisfy the requirements of this title.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. The gentleman from Michigan has introduced into this discussion something that is needed. That is the simple rule of reason. It is the rule of reason that indicates any agency dealing with a situation like that would face not only a judicial review but also a possible review by a congressional committee, and it is going to observe due process and is going to have a written record.

Mr. CRAMER. The argument of the gentleman from Oklahoma is very interesting, but I have run into administrators who have been unreasonable. What are you going to do about them? The rule of reason does not apply to them. They are unreasonable.

Mr. MEADER. We had some unreasonable rulings of arbitrary administrators in HEW which seriously and adversely affected the State of Michigan. So I agree with the gentleman from Florida that bureaucrats can be unreasonable. Often they are truculent and arrogant. Sometimes they are political.

Mr. CRAMER. I thank the gentleman. So how do we conform to the due process requirement, or at least, what I would say is the requirement of fairness, if we do not have some kind of testimony for review under the Administrative Procedures Act?

Mr. MEADER. I wish I could tell the gentleman some alternative way of accomplishing what he and I both want to accomplish. The only way I know is through the amendment offered which was recently rejected.

Mr. CORMAN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would urge again we look at the purpose of this title. It is not to liquidate all the programs this Congress has passed. It is to stop racial discrimination, and it is obvious by language in the section that we carefully worked on, that we expect the Department to carry out that purpose. We give them very broad latitude in negotiating with an agency or recipient who is discriminating before there could be any cutoff. We require that there be a specific finding of discrimination. We require that the recipient be notified of it and given a chance to stop. Assuming he does not, then the Department notifies the Congress, and we have an additional 30 days. It seems to me we have gone quite far. Because of experiences related by the ranking member on the minority side, we added that this would be subject to judicial review. This requirement goes well beyond any other kind of requirements that have been set up in the distribution of funds. I would urge that we not burden it further if we are serious about putting an end to discrimination in the expenditure of Federal funds. I urge a "no" vote on it.

Mr. TAFT. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I should like to associate myself with the views of the gentleman from Michigan [Mr. GRIFFIN], that without a record there is no judicial review that can be had. I would like to make one point with regard to that, because I think it may affect the votes of some Members on this. That point is that the agency action in determining whether or not it is required to withhold funds may go either way. It can go against the person, the State or the agency, or whatever body it might be, that says it should not be deprived of funds. It seems to me for the protection of either side of the case it is absolutely essential that you have some record on which a judicial review may be had. Unless you have that, this whole section about judicial review is meaningless.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Can the gentleman conceive of situations in which a much longer notice might be desirable than would be prescribed by the Administrative Procedures Act, just as there might be situations in which a shorter notice of hearing might be desirable?

Mr. TAFT. I assume under the preliminary action that would be taken by the agency if a longer notice than the Administrative Procedures Act notice were given, they could prescribe that in a preliminary proceeding before going into their official proceeding, if that was necessary.

Mr. EDMONDSON. The gentleman will concede the Administrative Procedures Act has specific requirements on notice of hearings and procedure to be followed that might be awkward and undesirable in this particular situation?

Mr. TAFT. I believe the procedures prescribed in general are minimum and not mandatory under the circumstances. I do not contemplate there would be any difficulty from this point of view, but I think we should realize this decision

could go either way, and it is a question of protecting both sides.

Mr. EDMONDSON. I will agree thoroughly with the gentleman that it would be desirable to have a record of what takes place. It would be my hope that the record would be available for judicial review whichever way the decision went.

Mr. TAFT. Unfortunately I think some of us have had such experiences with the agencies and that we do not share the viewpoint of the gentleman that there would be a record of the decision.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. TAFT. I yield to the gentleman.

Mr. WHITTEN. I think most of the Members here would agree with me there have been many times and there have been many times in my experience here where we were hard put, under severe examination, to determine who made the decision not to act. There have been many cases in the years that I have been here where we have had department heads before us and they have had a terrific job in trying to find out who made the decision. That is one point.

The second point is, I have been here also when for years under the milk marketing orders of the Department of Agriculture, it called for the proponents of the order to give notice to those opposed to it. Of course, you know they did not do it. If you are relying on an agency to take care of these things, I would remind you there have been plenty of experiences in my own service here, and I am sure it is true of the other Members where they just simply do not do it unless you spell it out and require that they go through some procedure to keep a record in writing so that it will be available for those who have to pass judgment on the matter.

Mr. DINGELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the gentleman from Florida has drafted a very neat amendment. I think we can look at this amendment in the light of our good friend, the attitude of the gentleman from Florida toward this bill. He is a bitter and announced opponent of the bill. Every amendment that has been offered by our good friend, the gentleman from Florida, has had for its sole and exclusive purpose the hamstringing and destruction of this legislation in any way possible.

So once we have established this framework, we can look at this issue now before the House in the light of the established pattern of law.

The fact of the matter is the Administrative Procedure Act is not a new provision in the law. It is simply enunciative of those things which have always been the requirements of due process within the Constitution. And it has been held on many occasions that the due process clause of the Constitution, of which the Administrative Procedure Act is simply enunciative, with regard to the question of hearings and with regard to the procedural rights of persons affected by Federal action, requires that a hearing be held; requires that notice be given to the affected parties; and requires that all procedural fairness and due process be afforded to persons affected by a ruling or a proposed ruling about a matter before a Federal agency which might later become the subject matter of a hearing.

Implicit in this is the requirement that a hearing be held. Implicit in this is the requirement that a record be kept. Since without an adequate record there can be no review by the courts. The failure by the Agency concerned with regard to section 601, section 602, or section 603 to keep an adequate and full and complete record would certainly be abundant ground for reversal by the courts of any finding by the Agency either with regard to the promulgation of general rules or with regard to the finding or ruling in a specific instance.

So with or without reference to the Administrative Procedure Act in section 601, the rights of parties are fully and completely protected. But because of the requirements of section 603 that review be done by the courts in accordance with section 10 of the Administrative Procedure Act which is the section dealing with judicial review, it becomes very plain that a record must be kept; that notice must be afforded to the parties; that service must be made upon interested parties; and that procedural due process, hearings, and general requirements of fair play which are inherent in our Constitution, and which the Administrative Procedure Act has been held by the courts in many instances simply to be enunciative must be made.

So I say there is no need for the amendment offered by our good friend from Florida. It would serve no purpose other than to becloud the issues.

In view of the fact that the gentleman has repeatedly announced his opposition to this proposed legislation and in view of the fact that he has sought on a number of occasions to hamstring and cripple the legislation, I say that the House of Representatives should not accept the amendment offered by the gentleman from Florida.

Mr. McCULLOCH. Mr. Chairman, I move to strike the requisite number of words.

It is apparent that we are in a difficult technical situation, from which we wish to get legislation which will meet the approval of the majority of the House. The staff and the Chairman of the Committee are working on a substitute amendment which should clarify our uncertain position.

For many weeks we who serve on the subcommittee tried to find a way agreeable to all, to the end that the action of an administrator could be adequately reviewed. I feel sure some of us have come to the conclusion that the time has been reached, after some 18 years, for the Administrative Procedure Act to be reviewed in its entire breadth and depth. If for the time being we can solve this immediate problem, I have a commitment that the Judiciary Committee will go into a complete review of the Administrative Procedure Act.

I hope, in view of those facts, that the House will accept the substitute now being drafted at the table.

I yield back the remainder of my time.

Mr. WHITTEN. Mr. Chairman, I wonder if it would be in order to move that the House do now adjourn, while the coalition works out the substitute amendment? Would it be in order to move that the House do now adjourn?

The CHAIRMAN. A motion to adjourn, of course, does not lie while the House is in the Committee of the Whole House.

Mr. WHITTEN. I merely wished to know if it were possible under the circumstances.

Mr. Chairman, I move that the Committee do now rise, while the coalition works out a settlement of the differences.

The CHAIRMAN. The question is on the motion of the gentleman from Mississippi [Mr. WHITTEN].

The motion was rejected.

SUBSTITUTE AMENDMENT OFFERED BY MR. LINDSAY

Mr. LINDSAY. Mr. Chairman, I offer a substitute amendment for the amendment of the gentleman from Florida.

The Clerk read as follows:

Amendment offered by Mr. LINDSAY as a substitute for the amendment offered by Mr. CRAMER: On page 62, line 17, insert before the word "Compliance" "After a hearing,".

Mr. LINDSAY. Mr. Chairman, I hope the Committee members will listen carefully.

The proposed substitute would make express what we thought was at least implied, that there is a hearing in connection with the statutory requirement that there be an express finding.

Now, the chairman of the committee [Mr. CELLER] said there would be a hearing, and that is the way the title is contemplated. A hearing is on the record and, in fact, no adjudication could be made, as provided in section 603 of title VI, in the absence of such a record. In fact the court would have full plenary powers to turn the matter over to the agency in order to provide such a record. I do think a hearing, which would be a hearing on the record, is entirely proper, and that is the way the drafters of the language have contemplated it. An express finding could not be made in the absence of such a hearing in any event.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from New York.

Mr. CELLER. I accept the substitute offered by the gentleman from New York [Mr. LINDSAY].

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from Florida.

Mr. CRAMER. I think it would be well to take a minute to clarify exactly what you are doing. Now, if you are going to gut my amendment, then I am a little concerned about it, but I sure heard that argument offered often enough against any amendment I have ever offered. Is it the intention and the purpose, in good faith, by the proponents of this substitute to provide for, as is provided in the Administrative Procedure Act, a hearing consistent with the Administrative Procedure Act, section 5, "in every case of adjudication required by

statute to be determined on the record after opportunity for an agency hearing"? Therefore, all the protections are provided which I have tried to enumerate in my discussion of the constitutional rights of those who are being charged with discrimination. If the gentleman will give me the assurance that that is the purpose and the objective of his substitute amendment, I will be delighted to accept it.

Mr. LINDSAY. I will give the gentleman every assurance that it is our intention that all constitutional rights be meticulously taken care of. I can recall arguing some cases in the Supreme Court for the Government, having been given quite a punching around because the word "hearing" was contained in the statute, and the Supreme Court, as do all Federal courts, surrounded that word with all of the requirements of due process, notice, and everything else. I am sure that the gentleman can be assured that the requirement of the hearing will protect every constitutional right.

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield to me?

Mr. LINDSAY. I yield to the gentleman from Michigan.

Mr. GRIFFIN. Section 603 refers to a judicial review in accordance with section 10 of the Administrative Procedure Act. Section 10 of the Administrative Procedure Act deals with judicial review and provides that a court may set aside a finding of an agency "if the finding is unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute."

The gentleman from New York, the chairman of the committee, referred to the substantial evidence rule.

Do I understand that this is the kind of a hearing to which they refer?

Mr. LINDSAY. I thank the gentleman from Michigan for his constructive and helpful comment, because it reinforces the statement which I made earlier to the effect that review provided for in section 605, and in that part where the Administrative Procedure Act is referred to, means that substantial evidence is required to support the decision made by the agency below. And, if substantial evidence is not apparent, then there is a reversible error.

Mr. GRIFFIN. May I say to the gentleman the thing about which I am concerned is not to pin down just the application of the substantial evidence rule. I am aware of that. I am concerned about the hearing. I wonder whether it is the kind of requested hearing which would be expedited in accordance with this provision.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LINDSAY. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LINDSAY. In answer to the gentleman from Michigan the hearing has to be on the record and the record which is made at the hearing has to be sufficient so that the reviewing court can be satisfied that all provisions of the act have been met and that the "substantial evidence" rule has been followed.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman from Florida.

Mr. HALEY. May I say to my colleague the gentleman from Florida [Mr. CRAMER] and the gentleman from Michigan [Mr. GRIFFIN] that perhaps the hearing will come after execution. I would suggest to the gentleman that it would be well to find out when you are going to get this hearing.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from New York [Mr. LINDSAY] to the amendment offered by the gentleman from Florida [Mr. CRAMER].

The question was taken; and on a division (demanded by Mr. CRAMER) there were—ayes 182, noes none.

So the substitute amendment was agreed to.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Florida [Mr. CRAMER], as amended.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CRAMER

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER: On page 63, line 13, after "Act" insert "except that such action shall be sustained only as supported by a preponderance of the evidence."

Mr. CRAMER. Mr. Chairman, I am going to take as little time as possible. This also involves the basic question of whether or not after an order has been issued a full review of the facts should be had. This is another question which we discussed in the subcommittee.

The Committee on the Judiciary of the House had a tough problem to wrestle with, and I admit it is tough, and I tried to be constructive in this aspect of it, as I was in connection with one of the amendments adopted in the committee. I am trying to do it on the floor of the House in the same spirit.

In the FEPC the issue was raised, and I am the one who raised it—the gentleman from Michigan and a number of others raised it—as to what kind of a review do you get when the effect of the administrative order is as broad as this is. Do you get a right of trial by jury de novo, or do you not? Are you hampered and hamstrung by the administrative procedure rule that there must be an abusive discretion on the part of the agency in order to get any relief in the review section? That is the crucial stage. The final decision is made in the review section. All my amendment does is to say that the party is accused of discrimination on this record which we have now created through hearing. When this hearing and the record comes up for review, that we put all parties on the same basis, the party that has discriminated and the Government agency is on exactly the same ground if you accept my amendment. That is, for the party discriminated against as represented by the Government. And if the Government can prove by more than 50 percent of the evidence it is right, the decision goes to the Government. If the party who is accused of discriminating can carry the weight of the evidence, the preponderance of the evidence, which means more than 50 percent, then the decision goes to him. What could be fairer than that? But, oh, no. Contrary to what they did in the FEPC, which has the rule of preponderance of evidence that I am trying to write into this section, they said that is all right for this section, but it is not all right for the other section. I want to put both parties on an equal basis when it comes to review. That is what the amendment does. I know the Members are familiar with that fact under the Administrative Procedure Act, otherwise the heavyweight is the Government. This puts everybody on the same even, equitable, fair, square basis.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Virginia.

Mr. POFF. I think it would help matters if it were understood why a different quantum of evidence was required for the Administrative Procedure Act as compared with the Federal Government. Ordinarily the rule is preponderance of evidence. In the Administrative Procedure Act as written it was felt substantial evidence would be sufficient because it was felt that the administrative agency which rendered the decision had special expertise in the field. But in this case the gentleman will agree outside the Department of Justice no Federal agency has any special expertise in the field.

Mr. CRAMER. The gentleman has made a very crucial point. There had to be a reason for giving the Government agency the advantage of this rule of evidence against the party charged. The reason was that the agency is assumed to know more about the subject matter than a large number of other people, therefore they were entitled to this rule because they were experts and that if a substantial portion of the evidence supported what they did, the Government agency should not be upset.

Who are the experts on the question of discrimination other than the Attorney General's office? This is not involving the Attorney General's office. This is every agency of the Government across the board that has the right to make these factual determinations on discrimination. Every single agency makes the determination. They are not experts on the question, and everybody ought to have a fair chance.

Mr. RODINO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment would completely upset the design of the Administrative Procedures Act, which has been in operation for so many years. I recognize what the gentleman is intending to do, and I have some sympathy with his attempt to try to establish some other rules of evidence and procedure. But I think this is not

the place or time to do it. I would urge that he or someone else on the committee, or someone else so inclined in the Congress, who has studied this matter, introduce legislation to this effect, so that the Judiciary Committee or the appropriate committee of Congress may consider this question. It is vast and covers a whole series of important issues. After thorough consideration and study we would then be able to draft a piece of legislation relating to the Administrative Procedures Act.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Ohio.

Mr. McCULLOCH. Would the gentleman from New Jersey be able to say that the Administrative Procedures Act should be opened up for examination and possible amendment in view of the tremendous and expanded increase in these matters and these cases?

Mr. RODINO. I certainly agree that this is a matter which should be properly reviewed. I have discussed this with the gentleman.

Mr. CELLER. I would say that a subcommittee of the Judiciary Committee is already studying the question of revision of the Administration Procedures Act, and we may have a staff report on that shortly.

Mr. McCULLOCH. In view of that, I regret to say that I do not believe we should adopt this amendment at this time.

Mr. RODINO. I urge the defeat of the amendment, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The amendment was rejected.

AMENDMENT OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN: At end of section 601, on page 62, add a new subsection, as follows:

"(a) Nor shall any community, county, parish, State, or section of the United States, on the ground of the race, color, or national origin of some of its citizens, nor because of the political actions of some of the citizens of such community, county, parish, State, or section of the United States, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity providing Federal financial assistance by any Federal department or agency."

Mr. WHITTEN. Mr. Chairman, I first wish to apologize to the membership for keeping you here. It is late. I accept the Rules of the House, yet I have been here all afternoon trying to get recognition. But there have been so many amendments offered by my friends on the Judiciary Committee I could not get the floor. For that reason it comes up at this late hour. But I do hope I will have your attention and your vote.

Section 601 provides:

Notwithstanding any inconsistent provision of any other law, no person in the United States, shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This section prohibits discrimination against persons.

My amendment recognizes, and I pointed out illustrations to you earlier today, and I will not repeat them, that on numerous instances agencies and departments themselves have been guilty of discrimination.

The section savs, and it leaves the other in effect, that the first part shall protect people from being discriminated because of race, creed, color, and so forth.

Mine says communities, towns, parishes, and counties shall not be discriminated against by departments and agencies because of the political activities of some of the citizens of such community or because of the race, creed, or color in some communities.

You may say this is farfetched. I repeat again—in my State for quite a long period the only two projects approved were for an all-Negro town, in Mound Bayou. All the others where there were many white people and many Negroes were either turned down or acted upon.

I can cite many, many cases where departments and agencies have discriminated against communities and against sections and so forth.

I say if you are sincere in your efforts, and I know many of you are, to protect persons from discrimination because of race, creed, and color, you should be equally interested in protecting sections of the country, communities, parishes, and counties from discrimination by agencies and departments.

I hope you will support this amendment. It is a sound amendment.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we may be back to where we were when we started because as I read this amendment we would be, in effect, negating this title.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. WHITTEN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLIER: On page 62, line 5, after the word "color" insert the word "religion".

Mr. COLLIER. Mr. Chairman and Members of the House, those of you who were on the floor earlier this afternoon will recall that there was a brief discussion referring to this particular amendment which I formally offer now.

The argument that was presented in opposition to its acceptance by the distinguished chairman of the Committee on the Judiciary was at that time too weak and certainly too vague.

It seems to me, in order to be consistent in this section of the bill with the language used in other sections of the legislation, that we ought to adopt this amendment.

I point out to the Members of the House that no less than 14 times in this bill do we include in the phraseology the words "race, color, and national origin" along with the word "religion."

Without commenting further on this amendment, I would like to have any member of the Committee on the Judiciary tell me the why and wherefore of this inconsistency and why this amendment cannot be accepted.

Mr. CELLER. I endeavored to make myself clear on two other occasions when that question was propounded to me. We had no evidence at all so far as this title is concerned that there was any discrimination based on religion. The prelates who appeared before the committee accepted our version of title VI. They had no quarrel with it whatsoever. For those reasons, we figured it was best to leave the word "religion" out.

Mr, COLLIER. Well, I understood that to be the chairman's reason before, but as I say in the light of the previous sections of the bill, I cannot accept that as being in any way good reasoning. In pursuing that with reference to race, color, and religion in title II covering public accommodations, may I ask the chairman please, this question: In title II of the bill covering public accommodations, we include the word "religion." Did you find there was a necessity to include religion in that section of the bill because of Baptists or Catholics or Episcopalians, perhaps, were not being permitted accommodations merely because of their religion?

Mr. CELLER. Since title II involves questions of public accommodations privately owned, we felt that "religion" would be appropriate, and we included "religion." There was some evidence it would be better to include "religion" in that title.

Mr. COLLIER. Religion is also included in the investigative section on voting rights. Do you know of any case on record in which there is a claim that anyone has been denied his right to vote because he was a Baptist or a Catholic or Episcopalian?

In sum and substance let me say that despite the argument presented here, in my opinion, is that the word is omitted by intent and as a loophole.

It appears that the word "religion" is omitted because it hits right at the heart of the controversy we have had for a number of years in the area of Federal aid to education. Those who might be interested in getting off the hook so to speak—those who are caught in the web of the religious issue in Federal aid to education may take themselves right off this hook by voting for the amendment and eliminating a problem which might develop later. In consistency to the rest of the bill, I recommend that the amendment be adopted.

The CHAIRMAN. The question is on amendment offered by the gentleman from Illinois.

The amendment was rejected.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all debate on title VI close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. ROOSEVELT. Mr. Chairman, reserving the right to object, as I understand the second amendment, it is a quotation from the Constitution?

Mr. WILLIAMS. That is the amendment I showed the gentleman a moment ago; yes.

Mr. ROOSEVELT. I thank the gentleman. I withdraw my reservation of objection.

Mr. CORMAN. Mr. Chairman, reserving the right to object——

Mr. WILLIAMS. I trust that the gentleman will not object to an amendment which has the language of the Constitution in it.

Mr. CORMAN. I only wish to make inquiry. There are 5 minutes remaining. Will there be some opportunity to respond, or will the entire 5 minutes go to the gentleman?

Mr. WILLIAMS. I do not intend to debate this at any great length. I am going to take my "licking" and sit down.

Mr. CORMAN. With that on the record, I withdraw my reservation of objection.

The Clerk read as follows:

Amendments offered by Mr. WILLIAMS: On page 62, line 5, after the word "color" insert "geographical region,".

On page 63, after line 15, add a new section as follows:

"Notwithstanding any other provision of this title, the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Mr. WILLIAMS. Mr. Chairman, President Johnson over the years has repeatedly stated, and while I may not quote him exactly I think I convey his meaning, that there should be no discrimination on account of "race, religion, or region." He always emphasized region—more especially when speaking before southern audiences.

The purpose of my amendment is merely to translate into law what President Johnson advocates. I hope it is not opposed by members of the Democratic Party.

Unfortunately, certain States of the Union because of their region have been discriminated against in the administration of Federal laws. It has been more pronounced in grant-in-aid programs involving this particular title. The record affirmatively shows that the Area Redevelopment Administration in the Department of Commerce has discriminated against the people of Mississippi. Proof exists in the hearings held by the Committee on Appropriations of the other body.

The Housing and Home Finance Agency has discriminated against the people of Mississippi. Urban planning assistance applications from Mississippi in fiscal years 1963 and 1964 were not approved until the General Accounting Office conducted an investigation at my request. During fiscal year 1963, in region III, HHFA approved all applications originating in Alabama, Florida, and North Carolina. Georgia had 4 out of 5 applications approved; Kentucky 6 out of 8; and 8 out of 9 from Tennessee were approved. South Carolina submitted no applications.

Ten applications from Mississippi were received. All were in order. The Housing and Home Finance Agency refused to approve a single one of the Mississippi applications.

In these two examples, the Area Redevelopment Administration and the Housing and Home Finance Agency are living proof of the need for my amendment. Officials in these agencies are prejudiced. They are biased. They discriminate. Those in authority who made the decisions in these two agencies should not be permitted to circumvent the intent of Congress by following their personal and political prejudices instead of the law of the land.

The other amendment is merely a restatement of article IV, section 2 of the U.S. Constitution. It is with regret that I appear cynical but based on the steamroller tactics we have experienced all week, I would not be surprised if a majority of the House on the ensuing vote were to express itself as being opposed to this provision of the Constitution which has been in effect for more than 174 years.

In Corfield against Coryell, Justice Washington specified the following rights as among those guaranteed by this constitutional provision:

Protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety.

This title in H.R. 7152 does violence to the Constitution.

To protect the civil rights of all Americans, I urge the adoption of both amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Mississippi [Mr. WILLIAMS].

The question was taken; and on a division (demanded by Mr. SMITH of Virgina) there were—ayes 22, noes 120.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. ROBERTS OF ALABAMA

Mr. ROBERTS of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS of Alabama: On page 63, after line 15 add the following:

"SEC. 604. No Government transportation shall be furnished by any department or agency under this title to any individual or individuals other than Government employees unless on official business."

The CHAIRMAN. The gentleman from Alabama [Mr. ROBERTS] is recognized for 2½ minutes.

Mr. ROBERTS of Alabama. Thank you.

Mr. Chairman, I felt once you understood this amendment you would not have any objection to it. It is really an economy amendment. You could call it an antihitchhiker amendment. Last year, about the 15th of October, I had a well-documented report that Rev. Martin Luther King and Wolf Dawson and James Foreman had been transported in a Government-hired automobile from Birmingham, Ala, to Selma, Ala., for the purpose of addressing a meeting at the Brown Memorial Baptist Church. I complained about this and in about 2 weeks I received a letter from Mr. Burke Marshall in which he said this had not occurred, that it was a false report, and he rather chided me because he said if I had made an investigation, I would not have made the charge. Well, after that the Justice Department—and I say this with all due credit to the Justice Department—recognized after doing some investigating that they had been the victims of misinformation given them by one Thelton Henderson who later, in order to clear his conscience, admitted to the Department that the automobile had been used for this purpose; that it had been a Government-hired automobile. After this Henderson was relieved of his duties and as far as I know is no longer on the payroll of the Department of Justice, although I am not sure on that point.

Mr. Chairman, I recognize that in these tense situations the Government is going to have to talk to witnesses. So long as it is on official business I do not see how anyone could object. However, I do seriously object to the Government going into the business of paying the freight and the expenses of sending outside agitators into areas to incite trouble and to promote violations of law. Mr. King says that he reserves the right not to support an act or a law which he regards as being unjust law.

Mr. Chairman, I submit the following correspondence:

THE ATTORNEY GENERAL,
Department of Justice,
Washington, D.C.

Reliable information has reached me that Justice Department officials are serving as drivers for Martin Luther King, Wolf Dawson, and James Foreman in Hertz Rent-a-Cars. These cars are leased or rented in the name of Justice Department officials and used in driving these agitators in Selma and Dallas County, Ala. Such interference in local administration is unwarranted, highly inflammatory, and completely unjustified. Request you advise me as to legal authority such expenditures of taxpayers money.

Your immediate order stopping this flagrant violation and illegal use of public funds should be forthcoming.

KENNETH A. ROBERTS,
Member of Congress.

OCTOBER 30, 1963.

Hon. KENNETH A. ROBERTS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROBERTS: This will acknowledge your telegram of October 17 to the Attorney General of the United States regarding our use of automobiles in Alabama.

Attorneys for the Department of Justice on duty in Alabama and elsewhere in the United States frequently rent automobiles. In recent weeks Department attorneys have rented automobiles in Alabama, including a 1963 blue Chevrolet Impala and a 1964 white Ford Galaxie. It has been reported that the 1963 Chevrolet was used to take Reverend King from Birmingham to Selma on October 15. This car had been rented by Kenneth McIntyre, a Department attorney, on Sep-

tember 14, 1963. Subsequent to September 14, Mr. John Doar of the Department used the car while in Alabama on Government business and thereafter, another Department attorney, Thelton Henderson, used this automobile. When Mr. Doar went to the Montgomery Municipal Airport in this car to catch an airplane back to Washington, he was accompanied by Thelton Henderson who then kept the car, as he had been instructed to continue his work in Selma and in Birmingham.

Selma, Ala., is in a county where we have now pending both a 42 U.S.C. 1971(a) suit against the board of registrars for discriminating against Negroes, and a 42 U.S.C. 1971(b) suit against the sheriff and other officials of Dallas County for intimidating Negroes in connection with their efforts to register to vote. In September, Selma was also the scene of racial disturbances which included large numbers of arrests of juveniles. Following the hearing of the case of *United States* v. *Wallace, et al.*, which was handled by Mr. Doar with the assistance of Mr. Henderson, in Montgomery, I sent both Mr. Doar and Mr. Henderson to Selma to report to me as to the racial situation there. After Mr. Doar reported to me, I decided that Mr. Henderson should remain on the scene in Selma and keep me directly advised of pending developments. Mr. Henderson has been particularly valuable to the United States in keeping this Department advised as to the scope and nature of planned demonstrations. On each of such assignments, the local FBI agents are aware of Mr. Henderson's presence and, I believe, the local sheriff and the chief of police are also aware of his presence. To date I have received no complaint about Mr. Henderson's handling of his assignments. On the contrary, it has happened that local law enforcement officers have sought and obtained information from Mr. Henderson in their preparation for handling tense situations. This has occurred, for example, in Birmingham, Ala., and Jackson, Miss.

On one occasion while in Selma, Mr. Henderson was trying to find out what the Student Nonviolent Coordinating Committee had decided to do in regard to threatened demonstrations. When James Foreman and Wolf Dawson emerged from a meeting at Brown's Memorial Baptist Church on their way to another meeting at the First Baptist Church in the same block, Mr. Henderson transported them in his automobile in order to gather what information he could from them.

Subsequently, I sent Mr. Henderson to Birmingham and he drove there in the same Chevrolet automobile that had previously been rented to Mr. McIntyre.

At about 5:15 p.m. on Ocober 15, Mr. Henderson went to the Gaston Motel to interview Reverend King at the specific direction of the Department of Justice. At that time Dr. King was at a meeting at the Gaston Motel. When Dr. King came out of the meeting, Mr. Henderson asked to speak to him. Dr. King replied that he was late and had to go immediately to the New Pilgrim Church in Birmingham. Henderson offered to drive him there if he could interview him on the way and Dr. King agreed. Henderson left the Gaston Motel at 5:30 p.m. and let Dr. King off at the New Pilgrim Church at 5:40 p.m. Henderson then returned to the Gaston Motel. The Chevrolet never left Birmingham that night.

We have learned that Reverend King was driven to Selma in a Chevrolet similar to the one rented by the Department of Justice. However, it was a privately owned vehicle and was not the one used by Mr. Henderson.

It has been reported that later on October 15, Reverend King was driven from Selma to Montgomery in the 1964 Ford which also was rented by Mr. McIntyre. Mr. McIntyre rented the Ford in Montgomery at 8:41 p.m. on October 15 and drove to Craig Air Force Base near Selma, checking into the base at 9:35 p.m. Thereafter, neither Mr. McIntyre nor the Ford left Craig Air Force Base that night. Mr. McIntyre does not know Reverend King and has never met him. The Ford remained overnight in Selma and the following morning John Doar, First Assistant Attorney General in charge of the Civil Rights Division, drove the Ford to Tuskegee and then back to Montgomery. We have been informed that Reverend King drove from Selma to Montgomery in a privately owned Cadillac.

It is obvious from these facts that neither the Chevrolet nor the Ford, nor any other car rented by the Department of Justice, was used to transport Reverend King. The reports to the contrary are false. Any efforts to ascertain the truth would have revealed these facts.

Very truly yours,

BURKE MARSHALL,
Assistant Attorney General,
Civil Rights Division.

NOVEMBER 6, 1963.

Hon. KENNETH A. ROBERTS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROBERTS: I regret to inform you that the information I furnished you concerning reports that vehicles rented by the Department of Justice were used to transport Rev. Martin Luther King around Alabama was in part inaccurate.

The enclosed statement corrects the inaccurate information which I earlier furnished you.

The Department is issuing a statement to this effect today. If you have any further inquiries about this matter, I would be happy to answer them for you.

Very truly yours,

BURKE MARSHALL,
Assistant Attorney General,
Civil Rights Division.

STATEMENT BY DEPARTMENT OF JUSTICE

Reports were published in Alabama last month that automobiles rented by the Department of Justice were used to transport Rev. Martin Luther King from Birmingham to Selma on the evening of October 15.

The Department of Justice issued a statement on October 18, asserting that no automobiles rented by the Department of Justice had been used to drive Reverend King either from Birmingham to Selma or from Selma to Montgomery.

No car rented by the Department was used to drive Reverend King from Selma to Montgomery. However, a car rented by the Department and being used by a Department lawyer was loaned to a private citizen who subsequently drove Reverend King from Birmingham to Selma on October 15.

During this time, the attorney, Thelton Henderson, remained in Birmingham. Nevertheless, the use of the car for unofficial business was contrary to Department of Justice regulations. It was also contrary to a statement which Mr. Henderson originally gave to the Department of Justice. Mr. Henderson came forward last night and voluntarily gave a correct account of what occurred. He has submitted his resignation to the Department and it has been accepted.

The Department regrets very much that its earlier statement as to the use of a car rented by the Department in connection with Reverend King's transportation from Birmingham to Selma was based on misinformation and, therefore, erroneous.

Mr. Chairman, I urge that the Committee adopt the amendment.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. BECKWORTH. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BECKWORTH. Mr. Chairman, I commend the gentleman from Alabama on his offering this amendment. At the time of the circumstances he describes, I recall talking to him about the uncalled for transportation. The gentleman deserves to be supported in his position. I support him in his position and am for the amendment.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment and ask that the debate on the amendment cease now.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The amendment was rejected.

AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLIER: On page 62, line 4, after the word "no" insert the following: "citizen of the United States nor any".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. COLLIER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COLLIER. Mr. Chairman, I was on my feet. Was the time limit invoked before or after that time?

The CHAIRMAN. The time limit was invoked before the gentleman was noted to have been on his feet.

Mr. COLLIER. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COLLIER. Was that request made in connection with the amendment pending or on all amendments?

The CHAIRMAN. The time was fixed and the two gentlemen noted on their feet were the gentleman from Alabama [Mr. ROBERTS] and the gentleman from New York [Mr. CELLER] and they equally divided the 5 minutes.

Mr. COLLIER. I say to the Chairman that I was on my feet at the time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. COLLIER) there were—ayes 58, noes 91.

So the amendment was rejected.

Mr. ALGER. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ALGER. Mr. Chairman, the withholding of Federal funds under Federal programs because of alleged discrimination as a racial matter in title VI of this bill shows the punitive nature of Federal law and the built-in danger of Federal aid programs.

On the one hand, we recognize that tax dollars are without racial color and

wherever there are Federal tax funds there must, consistently, be integration as opposed to segregation.

This leads to another realization. Federal money necessarily means Federal control.

Those Members of Congress who have voted consistently for Federal aid programs, many in the South, now must recognize that the chickens are coming home to roost.

Those who want Federal aid must take Federal encroachment and Federal regulation. When Congress spends the taxpayers' money we must lay down the terms and conditions for the use of Federal funds. Obviously, all public facilities built with Federal aid must be integrated without discrimination. Did the southern Members of Congress and others forget or overlook this fact? Or did any believe that the chickens would not come home to roost?

The alternative, of course, to Federal programs and public facilities paid for by tax money is the private sector of our economy. There has been too much invasion of the private sector of our economy by the Federal Government at the behest of many Members of Congress.

When Federal Government enters, there must be rules and regulations, and punitive action, including fines and imprisonment, backed up by the police power.

Should we be surprised that the Federal Government and Federal bureaucrats will withdraw Federal aid when localities and States fail to comply with Federal regulations? Of course not.

So many times as civil rights is before us are the occasions when certain Members of Congress plead for States rights. Unfortunately on many Federal aid programs States rights have been forgotten. Only on civil rights matters do some Members want States rights inviolate.

Now we see the primitive power of Federal Government by withdrawing Federal aid, which is unquestionably one prerogative of Federal Government.

Most frightening in this context is the potential political use of Federal money. Not only in racial matters but in kindred bureaucratic decisions can friends be rewarded and enemies punished. Need more be said?

The chickens, then, will come home to roost with a vengeance.

Private programs, not Government programs, are the answer. Also, if those Members of Congress who studiously present their civil rights views were to exercise the same scholarship, zeal, and constitutional interpretation, in other Federal programs, involving Federal moneys, we of the legislative branch of our Government would collectively do a far better job.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

Findings and declaration of policy

SEC. 701. (a) The Congress hereby declares that the opportunity for employment without discrimination of the types described in sections 704 and 705 is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

(b) The Congress further declares that the succeeding provisions of this title are necessary for the following purposes:

(1) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(2) To insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

Definitions

SEC. 702. For the purposes of this title—

(a) the term "person" includes one or more individuals, labor union, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 719, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 719, (B) fifty or more during the second year after such date, or (C) twenty-five or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

Exemption

SEC. 703. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society.

Discrimination because of race, color, religion, or national origin

SEC. 704. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, or national origin;

(2) to limit, segregate, or classify its membership in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training programs to discriminate against any individual because of his race, color, religion, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to hire and employ employees of a particular religion or national origin in those certain instances where religion or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

Other unlawful employment practices

SEC. 705. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion when religion is a bona fide occupational qualification for employment.

Equal Employment Opportunity Commission

SEC. 706. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of $20,000 a year, except that the Chairman shall receive a salary of $20,500.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place. The Commission may establish such regional offices as it deems necessary, and shall establish at least one such office in each of the major geographical areas of the United States, including its territories and possessions.

(g) The Commission shall have power—

(1) to cooperate with and utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or other remedial action;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to interested governmental and nongovernmental agencies.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

Prevention of unlawful employment practices

SEC. 707. (a) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge. If two or more members of the Commission shall determine, after such investigation, that reasonable cause exists for crediting the charge, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

(b) If the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, or in advance thereof if circumstances warrant, the Commission, if it determines there is reasonable cause to believe the respondent has engaged in or is engaging in, an unlawful employment practice, shall, within ninety days, bring a civil action to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring a civil action in any case in which the Commission has, by affirmative vote, determined that the bringing of a civil action would not serve the public interest.

(c) In the Commission has failed or declined to bring a civil action within the time required under subsection (b), the person claiming to be aggrieved may, if one member of the Commission gives permission in writing, bring a civil action to obtain relief as provided in subsection (e).

(d) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such actions may be brought either in the judicial district in which the unlawful employment practice is alleged to have been committed or in the judicial district in which the respondent has his principal office. No such civil action shall be based on an unlawful employment practice occurring more than six months prior to the filing of the charge with the Commission and the giving of notice thereof to the respondent, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event a period of military service shall not be included in computing the six month period.

(e) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and shall order the respondent to take such affirmative action, including reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as may be appropriate. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for cause.

(f) In any case in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by the United States at a rate to be fixed by the court, and shall be reimbursed by the United States for necessary expenses incurred in performing his duties under this section. Any court before which a proceeding is brought under this section shall advance such proceeding on the docket and expedite its disposition.

(g) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

(h) In any action or proceeding under this title the Commission shall be liable for costs the same as a private person.

Effect on State laws

SEC. 708. (a) Nothing in this title shall be deemed to exempt or relieve any person from

any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

(b) Where there is a State or local agency which has effective power to eliminate and prohibit discrimination in employment in cases covered by this title, and the Commission determines the agency is effectively exercising such power, the Commission shall seek written agreements with the State or local agency under which the Commission shall refrain from bringing a civil action in any cases or class of cases referred to in such agreement. No person may bring a civil action under section 707(c) in any cases or class of cases referred to in such agreement. The Commission shall rescind any such agreement when it determines such agency no longer has such power, or is no longer effectively exercising such power.

Investigations, inspections, records

SEC. 709. (a) In connection with any investigation of a charge filed under section 707, the Commission or its designated representative may gather data regarding the practices of any person and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as may be appropriate to determine whether the respondent has committed or is committing an unlawful employment practice, or which may aid in the enforcement of this title.

(b) With the consent and cooperation of State and local agencies charged with the administration of State fair employment practices laws, the Commission may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered to assist the Commission in carrying out this title.

(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship it may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment service, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

Investigatory powers

SEC. 710. (a) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission, except that the provisions of section 307 of the Federal Power Commission Act shall apply with respect to grants of immunity, and except that the attendance of a witness may not be required outside the State where he is found, resides, or transacts business, and the production of evidence may not be required outside the State where such evidence is kept.

(b) The several departments and agencies of the Government, when directed by the President, shall furnish the Commission, upon its request, all records, papers, and information in their possession relating to any matter before the Commission.

Employment practices of governmental agencies and of contractors with the Government

SEC. 711. (a) The President is authorized and directed to take such action as may be necessary to provide protections within the Federal Establishment to insure equal employment opportunities for Federal employees in accordance with the policies of this title.

(b) The President is authorized to take such action as may be appropriate to prevent the committing or continuing of an unlawful employment practice by a person in connection with the performance of a contract with an agency or instrumentality of the United States.

Notices to be posted

SEC. 712. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commissioner setting forth excerpts of this title and such other relevant information which the Commission deems appropriate to effectuate the purposes of this title.

(b) A willful violation of this section shall be punishable by a fine of not less than $100 or more than $500 for each separate offense.

Veterans' preference

SEC. 713. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

Rules and regulations

SEC. 714. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he published and filed such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

Forcibly resisting the Commission or its representatives

SEC. 715. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

Appropriations authorized

SEC. 716. There is hereby authorized to be appropriated not to exceed $2,500,000 for the administration of this title by the Commission during the first year after its enactment, and not to exceed $10,000,000 for such purpose during the second year after such date.

Separability clause

SEC. 717. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Special study by Secretary of Labor

SEC. 718. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1964, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment because of age as he determines advisable.

Effective date

SEC. 719. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 704, 705, and 707 shall become effective immediately.

(c) The President shall as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

Mr. CELLER (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the further reading of title VII be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CELLER. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion of the gentleman from New York.

The question was taken; and on a division (demanded by Mr. HALLECK) there were—ayes 106, noes 88.

So the motion was agreed to.

Accordingly, the Committee rose: and the Speaker having resumed the chair, Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for 4 years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, had come to no resolution thereon.

ELECTION OF MEMBER TO THE POST OFFICE AND CIVIL SERVICE COMMITTEE

Mr. HALLECK. Mr. Speaker, I offer a resolution and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That ALBERT W. JOHNSON, of Pennsylvania, be, and he is hereby elected a member of the standing Committee of the House of Representatives on Post Office and Civil Service.

The resolution (H. Res. 625) was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING ACQUISITION OF AND PAYMENT FOR FLOWAGE EASEMENT AND RIGHTS-OF-WAY WITHIN THE ALLEGANY INDIAN RESERVATION IN NEW YORK

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1794) to authorize the acquisition of and the payment for a flowage easement and rights-of-way over lands within the Allegany Indian Reservation in New York, required by the United States for the Allegheny River—Kinzua Dam—project, to provide for the relocation, rehabilitation, social and economic development of the members of the Seneca Nation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado [Mr. ASPINALL]?

Mr. SAYLOR. Mr. Speaker, reserving the right to object, will the gentleman from Colorado explain to the Members this bill that is being considered?

Mr. ASPINALL. Mr. Speaker, I shall be glad to explain the provisions of the bill, and I might also at this time say that the gentleman from Florida [Mr. HALEY], of the subcommittee handling the legislation, the gentleman from Pennsylvania [Mr. SAYLOR], ranking minority member of the committee, are in a position to help in the explanation of this particular legislation.

It is necessary if we are to do what the legislation purports to do that we have this legislation agreed to by the Congress, approved by the President and in the hands of the Committee on Appropriations for reclamation as soon as possible.

I am not going into the history of the Kinzua Dam. We have had a controversy over the building of the Kinzua Dam for many years. That dam was first authorized as a part of a flood control project of the Ohio River.

Although these costs that are involved in this particular piece of legislation which would make payment to the Seneca Indian Tribe, who reside in that area of New York which would be affected by the construction of the dam, do add to the costs of the project, nevertheless the project is feasible and would have been feasible, even it these costs had been figured in at the time the first estimate was made. The benefit-cost ratio originally was 2.1 to 1. With these costs figured in, the benefit-cost ratio would still be 1.8 to 1, which is a very good project.

The bill provides for certain payments to the Seneca Tribe for damages and also provides for a rather large sum to be appropriated and used by the Senecas for reconstruction. The total now is $19,253,375.

May I say in explanation that the consideration given to this bill in my opinion merits the praise of my colleagues in the House. If you will notice in the report on this bill there appear the following individual views:

We wish to recognize the patience and understanding shown by Representatives JAMES A. HALEY, chairman, Subcommittee on Indian Affairs, in pursuing the cause of justice for the Seneca Indians in their negotiations with the Federal Government.

We commend him for his undeviating perseverance in achieving a fair settlement for the Seneca Nation in accordance with our American ideals.

This has been signed by every member of the committee other than the gentleman from Florida [Mr. HALEY], who prepared and filed the report at the request of the chairman of the committee.

Mr. Speaker, the bill presently before us, H.R. 1794, concerns the Seneca Nation of Indians residing, for the most part, in New York State. The bill authorizes first, the acquisition of and payment for a flowage easement and rights-of-way over lands within the Allegany Indian Reservation that is required by the U.S. Army Corps of Engineers in the construction of the Kinzua Dam and Reservoir on the Allegheny River, and second, funds for the relocation, rehabilitation and social and economic development of members of the Seneca Nation.

The project has an interesting and controversial history. The flood Control Act of 1936 enacted by Congress was a comprehensive plan for the protection of major cities and lowlands in the Ohio Valley. The Allegheny Dam, located at Kinzua, Pa., and reservoir north of the dam site, is a major step in the completion of the program. This particular project was authorized in construction acts in 1938, 1941, and 1944, but funds were not made available until 1958. The project, now nearing completion, is located on the Allegheny River 198 miles above Pittsburgh and 9 miles south of the Pennsylvania-New York boundary line. Constructed of combined concrete and earth embankment, the dam will be 180 feet high and 1,915 feet long. The dam will create a narrow reservoir some 35 miles in length extending northward to Salamanca, N.Y. Present schedules call for partial closure of the dam in June 1964, for total closure in October of this year, and for completion of the entire structure within a year. No power generating facilities are included in the project.

The estimated cost of the Allegheny River project is $107 million, not including the costs considered in H.R. 1794 which will bring it up to roughly $120 million. The project's benefit-cost ratio on the project construction alone is reasonable, roughly 2.1 to 1. Treating all items covered by the bill as though they were project costs, the ratio becomes 1.8 to 1. In other words, it is estimated that benefits accruing from flood control, low water control, and recreation will run to approximately $6¼ million per year. The dam will provide flood protection in varying degrees, not only for Pittsburgh and its industries, but also for many other cities and industries located in the Allegheny and Ohio River Valleys. The flood control capacity to be provided by the dam and reservoir is said to be sufficient to store a flood about 2½ times the size of the greatest flood of record at the dam site. It is contended that the reservoir will substantially reduce all major floods in the 200-mile reach of the river below.

Let me describe the project further. Not much land, only 21,175 acres, in New York and Pennsylvania is involved, but it is a very important acreage so far as the Seneca Nation is concerned. The Allegany Reservation, which contains only 30,000 acres to begin with, will lose over one-third of its area to the reservoir. The remainder of the reservation land includes about 10,000 acres within the so-called congressional villages, of which Salamanca is the largest, and 2,000 acres in rights-of-way for highways and the like. There will thus be left about 8,500 acres of dry land for permanent and unrestricted use by members of the Seneca Nation residing on the reservation. Unfortunately, much of this will either be so isolated by the reservoir or so hilly that it can be scarcely utilized.

On this acreage a goodly portion—1,100 actually—of the 4,200 enrolled Senecas will be expected to reside and earn a livelihood. Of the 1,100 Senecas living on the Allegany Reservation, 482—127 families—must be relocated on two sites—Jimersontown—300 acres—and Steamburg—350 acres. These sites have been set aside for the relocatees but they must be improved and developed. Little has been done as yet to make these sites

habitable and the date for removal of the residents is rapidly approaching. Thus there is a real sense of urgency in the enactment of this legislation.

I shall not dwell on the manner in which this project was handled except to say that the Indians were caught in a serious bind. Unfortunately, the Indians were not reimbursed for their losses before the dam and reservoir construction commenced. In fact, they have not received a dime to date although the project is nearing completion. Their holdings should have been considered when the Corps of Engineers planned the project and the authorizing committee should have worked with the Indians in arriving at an overall cost. It is too late to talk about what should have been done. Now our job is to enact flowage easement, rehabilitation, and relocation legislation which will make it possible to complete the construction and provide decent homes and economic opportunities for the displaced members of the Seneca Nation.

Mr. Speaker, my colleagues from the Committee on Interior and Insular Affairs will outline further the details of H.R. 1794 and explain the need for early enactment of the legislation.

Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. HALEY], the gentleman from Pennsylvania [Mr. SAYLOR], and any other Members desiring to do so, may be permitted to extend their remarks at this point in the RECORD in connection with this bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. HALEY. Mr. Speaker, I thank my chairman, the gentleman from Colorado [Mr. ASPINALL] and the gentleman from Pennsylvania [Mr. SAYLOR] for their comments on H.R. 1794.

My chief interest in this legislation stems from two documents, the Pickering Treaty of November 11, 1794, signed by President George Washington, and the opinion of the Court of Appeals found in the appendix of Committee Report No. 1128.

In the Pickering Treaty the United States recognized the property of the Seneca Nation and solemnly promised not to claim the land under any circumstances:

> Until they [the Senecas] choose to sell the same to the people of the United States, who have the right to purchase.

To me the treaty means what it states. To the Corps of Engineers apparently the treaty means something else.

The Seneca Nation contested the corps' right to condemn its land and to construct the Kinzua Dam and Reservoir. The nation lost its suit legally. Morally, however, the Seneca Nation still has a case, a very strong case. If the land required for the Kinzua Dam and Reservoir were fee simple land I know of no reason why condemnation proceedings could not or should not take place. Such is not the case. The United States has a special and peculiar responsibility to its Indian wards, particularly when they are covered by treaty provisions. This is not the first time—nor will it be the last time, I fear—that Indians have seen their land taken in a ruthless manner for the benefit of persons other than themselves. In a number of instances in North and South Dakota, Indian reservation lands have been taken for flood control purposes. In those instances the tribes were reimbursed for their losses and special consideration was made for their relocation and rehabilitation. Similar treatment should be given to the Seneca Nation which has lost 10,200 acres of the best land on the Allegany Reservation.

My bill, H.R. 1794, which incidentally carries the same number as the date of the violated Pickering Treaty, provides for the payment of three classes of money to the Senecas: First, that which will be required for the acquisition of flowage easements within the Allegany Reservation; second, compensation for certain indirect damages which, in ordinary condemnation proceedings, are not compensable; and third, that which is necessary to rehabilitate and reestablish on a firm footing the Seneca's economy and to cover certain other expenses.

May I now explain what I mean by direct damages. Of the amount set aside for direct damages, $1,289,060, about $666,000 is for Seneca land being acquired for the dam and reservoir. This is a negotiated sum and, I believe, reasonable in the light of similar land values in southwestern New York State. Permanent improvements on the acquired land are listed at $522,000. Again this is a negotiated value. A compromise amount of $100,000 has been set aside for damages caused by the reservoir in exploiting oil and gas resources. Court action will be necessary to arrive at a compensable amount for sand and gravel resources. The Corps of Engineers and the Seneca Nation were unable to arrive at a compromised value of these resources.

As was done in legislating for North and South Dakota Indians in similar cases certain sums are authorized for indirect damages. Obviously it is very difficult to arrive at values which includes loss of timber and wildlife resources, access to the shoreline, payment for the river bottom, and the cost of furnishing water to the relocation sites.

In spite of the corps' objections to the propriety of charging indirect costs to the overall cost of the Allegheny River project, our committee earmarked $1,033,275 for this category. A breakdown of costs will be found on page 8 of Committee Report No. 1128.

The most costly item in the bill is for rehabilitating the 4,200 members of the Seneca Nation. For this purpose, $16,900,000 has been allocated. While actually only 127 families—482 persons—are being relocated, all 4,200 members will participate in the rehabilitation program which will become possible under H.R. 1794.

The bill itself does not specify dollar amounts for each portion of the rehabilitation program, but on page 8 of our committee report is a listing of amounts proposed for the six subitems. The committee urges that these amounts be kept flexible to insure a well-rounded program.

The first item calls for an $8 million expenditure for agricultural, commercial, and recreational development. Originally, an engineering firm employed by the Bureau of Indian Affairs with funds provided by the Corps of Engineers, recommended a $29 million project which envisaged an Indian Williamsburg tourist attraction which would have depicted life as it was in the early and mid-1800's. The committee rejected this plan and settled on a less costly development which the Senecas believe they can work out on a smaller scale.

Since the remaining acreage on the Allegany Reservation or on the other Seneca Reservation—the Cattaraugus—lying some 20 miles to the north, cannot possibly support the nation through farming activities, the committee looked favorably on the creation of an industrial park development which would provide sorely needed employment. For this purpose, $4,400,000 is set aside.

Two relocation and resettlement sites will be established to accommodate the 127 displaced families. An amount of $1,025,000 for this purpose has been approved by the Seneca Housing Committee, the Kinzua Planning Committee, and the Bureau of Indian Affairs. These two sites will have streets, water, electricity, and parking facilities.

The recommendation that $2,300,000 be made available for education is based on estimates of needs made by the Seneca Nation with advice and assistance from the Bureau of Indian Affairs. It is intended to finance a 20-year program of higher education and vocational training for a generation of Seneca children.

Several other less costly items and provisions, including cemetery relocation and attorney fees, are included in the bill but they are of a somewhat minor nature.

Mr. Speaker, I know our colleagues are interested in the overall cost of this legislation. It is estimated that the total amount involved in this bill is about $20,150,000.

The Corps of Engineers advised me this morning that its present estimated cost of the entire project is $107 million. Of this total $63,906,000 has already been appropriated, either prior to June 30, 1963 or for fiscal 1964. Yet to be appropriated for the project is $43,094,000. The corps is requesting $27 million for fiscal 1965 and will ask for the remaining $16,094,000 at a later date. The $107 million quotation, I might add, does not include the cost of indirect damages, $1,033,275, which the corps believes to be excessive.

The Bureau of Indian Affairs will justify its needs before the Appropriations Committee. Our committee will not endorse an elaborate Bureau field setup to administer H.R. 1794.

Mr. Speaker, I strong support H.R. 1794 and urge its favorable consideration by the House. Time is of the essence if we are to relocate the Senecas before the dam gates are closed and their homelands are flooded.

Mr. SAYLOR. Mr. Speaker, I introduced a companion bill to H.R. 1794 because I was greatly concerned over the treatment the Seneca Nation was receiving from the Corps of Engineers.

I followed the course of the Kinzua project with careful interest since construction work began. I waited and waited in vain for the corps to complete negotiations for the property of the Senecas needed for the reservoir. I don't think the Pickering Treaty should have been arbitrarily abrogated by the United States but the courts have acted and a decision has been rendered. I find it difficult to see why this dam construction had to commence before the corps and the Nation could have come to terms. The Indians were given cruel and inhuman treatment. They saw their reservation being eaten away for the benefit of the corps. They saw the Pennsylvania Railroad Co. receive prompt and liberal payment for the removal and replacement of its rights-of-way and rail beds. The Indians have not yet received one red cent for the loss of their holdings. They are fully aware that within 5 months the gates of the dam will be closed and their lands will be flooded. They are anxious, and rightly so, about the payment for their land. I personally doubt if any group of non-Indians would have been as patient with the Government as the Indians have been. They know that funds have been made available to build the dam, pay the railroad company and non-Indian landholders. They know that the appropriation hearings are presently being held and that unless the amounts named in this bill can be authorized, the Appropriations Committee will be hard pressed to make rehabilitation funds available.

Mr. Speaker, H.R. 1794 faces a difficult course in the other body. A Corps of Engineers-Seneca Nation compromise has been reached as set forth in this bill. It will cost Congress a sizable sum of money to meet its obligation to the Senecas. Time is running out on the Senecas. I am most hopeful that prompt and careful consideration be given to H.R. 1794, a bill which will prove to the Senecas that while we cannot heal the broken Pickering Treaty, we can to some degree make amends for our thoughtlessness.

Mr. EDMONDSON. Mr. Speaker, I wholeheartedly support this meritorious legislation, which endeavors to do justice to the Seneca Indians.

As a member of the Subcommittee on Indian Affairs, it has been a privilege to support the gentleman from Florida [Mr. HALEY] in his able and valiant effort to assure justice to these first Americans.

I earnestly hope the bill may be speedily approved by the other body and by the President.

Mr. GOODELL. Mr. Speaker, I rise to express my support for H.R. 1794, designed to assist the Seneca Nation of Indians, located in my 38th Congressional District of New York.

The bill is, in many respects, similar to H.R. 7354, the bill I introduced in the 1st session of the 88th Congress. At the time these bills were initially introduced, it was impossible to know the full details of the expected costs. A legislative vehicle was needed, however, and H.R. 1794, which we consider here tonight, is a good bill which provides justice for the Seneca Nation of Indians.

I am very pleased with this bill and especially with the fact that it has won the approval of both the Senecas and the U.S. Army Corps of Engineers whose Kinzua Dam project on the Allegheny River in Pennsylvania necessitates this action.

Time has been and is now of the essence. In June of this year the gates on the dam will be partially closed. They will close further in October of this year. Slowly but surely the floodwaters from that Pennsylvania dam will edge up in New York State on Seneca lands. Hence the need for our action here tonight.

I strongly support the proposal and am zealous that it be moved swiftly to enactment.

It should be pointed out that the total cost of this bill averages out to approximately $4,000 per Seneca, although in no case will such an amount be paid directly to any individual. If the Seneca Nation of Indians were being kept on the Federal program instituted for Indians, it is estimated that it would cost $800 per year per individual. This means that through this bill we will, over a period of 5 years, have taken up the cost that normally could be expected to continue indefinitely. The Seneca Nation, however, will be independent and cost the Federal Government very little after 5 years.

It should be added that there are some aspects of the problem of the Seneca Nation that are not covered in this bill. These are major items which have not as yet been resolved. The costs for these other items must be met later.

When I consider the $20 million which this bill will cost, I must point out that it illustrates, in an all too expensive lesson, the folly of the hasty way in which the Kinzua Dam was approved. Those of us who urged further consideration of alternate plans, costing less and displacing fewer persons, were overridden in the Congress. Tonight we pay the bill for that folly.

The costs in this bill were not considered in computing the cost-benefit ratio of the Kinzua Dam and it was not mentioned by those who sought hasty approval of the project. If these costs had been added to the huge construction costs, it is entirely likely that the cost-benefit ratio would show that we are now spending a dollar for considerably less than a dollar's worth of benefit.

Those who opposed the Kinzua Dam are justified tonight.

Let us not forget that it is the Seneca Nation of Indians that has been damaged and let it be our hope that with the impetus of this legislation they can build for themselves a way of life that will be rewarding and satisfactory in every way.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Allegheny River Dam and Reservoir project authorized by the Flood Control Acts of August 18, 1941 (55 Stat. 638), and December 22, 1944 (58 Stat. 889), the United States hereby takes—

(a) the right, power, privilege and easement to overflow, flood and submerge lands within the Allegany Indian Reservation up to 1,365 feet above sea level, consisting of approximately 10,010 acres, as delineated on the map referred to in section 14 hereof, for as long as required in the construction, operation and maintenance of the Allegheny River project authorized under the aforesaid Flood Control Acts; and

(b) rights-of-way for the relocation of highways, railroads, telephone lines and other public utilities across approximately acres of land within the Allegany Indian Reservation, including lands below elevation 1,365 feet, as also delineated on the map referred to in section 14 hereof, for as long as said rights-of-way are used for the purposes originally intended.

SEC. 2. In consideration for the flowage easement and rights-of-way acquired under section 1 of the Act, the United States will pay, out of funds available for the Allegheny River project, and in accordance with the provisions of section 3 hereof—

(a) to the Seneca Nation, the amount of $ as compensation for the direct damages (including severance damages and the taking of subsurface rights as hereinafter provided in section 6) to lands within the Allegany Indian Reservation caused by the aforesaid flowage easement and rights-of-way;

(b) to individual Seneca Indians, a sum aggregating $———, to be disbursed in accordance with the provisions of a schedule prepared pursuant to section 3(b) of this Act, as compensation for the taking of houses, barns, fences, wells, and other structures and improvements on lands within the Allegany Indian Reservation; and

(c) to the Seneca Nation, the amount of $———, in settlement of all other claims, rights, and demands of the nation and its members, including indirect damages, arising out of the taking of property under this Act.

SEC. 3. (a) The payment authorized by section 2(a) of this Act shall be made directly to the Seneca Nation: *Provided,* That out of the funds so distributed to the Nation a sum aggregating $——— shall be paid to individual Seneca Indians in accordance with a schedule of allottees within the taking area prepared by the Secretary of the Army, after certification by the nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the Seneca Nation, with the approval of the Secretary of the Interior, as compensation for the interests in lands within the taking area of said individual Seneca Indians.

(b) The payments authorized by section 2(b) of this Act shall be made directly to individual Seneca Indians in accordance with a schedule of property owners within the taking area prepared by the Secretary of the Army, after certification by the Seneca Nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the nation, with the approval of the Secretary of the Interior, as compensation for the homes, barns, fences, wells, and other structures and improvements within the taking area of said individual Seneca Indians.

(c) The payment authorized by section 2(c) of this Act shall be made directly to the Seneca Nation: *Provided,* That the Nation, with the approval of the Secretary of the Interior, shall make available from the funds so distributed not to exceed $———, to pay the expenses, costs, losses, and damages incurred by individual Seneca Indians as a result of moving themselves and their possessions, including dwellings and other buildings owned by the members of the Nation, on account of the acquisition by the United States of a flowage easement and rights-of-way within the Allegany Reservation as authorized in section 1 of this Act.

(d) No part of the compensation provided for in section 2 of this Act shall be

subject to any prior lien, debt, or claim of any nature whatsoever against the Seneca Nation or the individual Seneca Indians entitled to such compensation, except delinquent debts owed to the United States by the nation or delinquent debts owed to the United States or the Seneca Nation by the individual Seneca Indian entitled to the compensation: *Provided,* That such compensation shall not be applied to the payment of individual delinquent debts to the United States unless the Secretary of the Interior first determines and certifies that no hardship will result from the payment of such delinquent debts.

SEC. 4. There is authorized to be appropriated the additional sum of $, which shall be deposited in the Treasury of the United States to the credit of the Seneca Nation and which shall draw interest on the principal at the rate of 4 per centum per annum until expended, for assistance designed to improve the economic, social, and educational conditions of enrolled members of the Seneca Nation, including, but not limited to, the following purposes:

(a) agricultural, commercial and recreational development on the Allegany, Cattaraugus, and Oil Springs Reservations;

(b) industrial development on the Seneca reservations or within fifty miles of any exterior boundary of said reservations if a preferential right of employment is granted members of the Nation;

(c) relocation and resettlement, including the construction of roads, sai 'tation facilities, houses, and related structures;

(d) the construction and maintenance of community buildings and other community facilities;

(e) an educational fund for scholarship loans and grants, vocational training, and counseling services;

(f) the acquisition of lieu lands either within or adjacent to the Allegany Reservation, as authorized under section 13 of this Act; and

(g) a resurvey of the boundaries of the villages established pursuant to the Act of February 19, 1875 (18 Stat. 330), together with a title search to determine the current status and extent of all leases issued by the Seneca Nation therein.

The funds authorized by this section shall be expended in accordance with plans and programs approved by the Seneca Nation, after consultation with the Secretary of the Interior: *Provided,* That no part of such funds shall be used for per capita payments.

SEC. 5. The Secretary of the Army, out of funds appropriated for the Allegheny River project other than funds provided by this Act, is authorized and directed to relocate and reestablish within the Allegany Reservation such Indian cemeteries, tribal monuments, graves, and shrines inside the taking area as the Seneca Nation or the next of kin shall select and designate: *Provided,* That reinterment of individual remains, though not entire cemeteries, outside the boundaries of the Allegany Reservation also is authorized if so desired by the next of kin, but in such event reinterment to a site which exceeds the equivalent distance from the disinterment site to the farthest point at which reinterment could be made within the reservation boundaries will be made only if the next of kin agrees to pay the added cost: *And provided further,* That the Secretary of the Army is authorized and directed to provide for perpetual maintenance and care at not more than two cemetery relocation sites designated by the Seneca Nation if 50 per centum or more of the graves within the Allegany Reservation subject to disinterment by virtue of the Allegheny River project are reinterred in such sites.

SEC. 6. With the exception of sand and gravel, all minerals of any kind whatsoever, including oil and gas, within the flowage easement and rights of way acquired by the United States under this Act, are hereby reserved for the Seneca Nation. All sand and gravel within the taking area of the Allegheny River project lying under lands now designated as elevation 1340 feet or above, except lands subject to rights of way for highway or railroad purposes, also are reserved for the Seneca Nation. Notwithstanding the foregoing provisions of this section, the exploration and development of such minerals, including oil and gas, and sand and gravel, within the taking area shall be subject to all reasonable regulations of the Secretary of the Army necessary for the protection of the Allegheny River project.

SEC. 7. Members of the Seneca Nation shall have the right without charge to remain on and use the lands subject to the flowage easement and rights of way acquired by the United States under this Act until required to vacate at such times as may be fixed by the Secretary of the Army, with the approval of the Secretary of the Interior and after consultation with the Seneca Nation: *Provided,* That the time for vacating in any event will not extend beyond ———, 196–.

SEC. 8. Up to sixty days before the date for vacating the flowage easement and rights of way in accordance with section 7, the Seneca Nation on its common lands within the taking area for the Allegheny River project, and individual Seneca Indians on lands in which they have an interest as shown on the schedule of allottees described in section 3(a) of this Act, shall have the right, without charge, to cut and remove all timber and to salvage improvements: *Provided,* That if such rights are not exercised or are waived by said individual Seneca Indians within the time prescribed, the nation may exercise their rights: *And provided further,* That the timber cut and the salvage permitted by the section shall not be construed to be compensation.

SEC. 9. The Seneca Nation shall have the right to use, occupy, and control the taking area of the Allegheny River project within the Allegheny Reservation for all purposes not inconsistent with the flowage easement and rights of way acquired by the United States under this Act, including, but not limited to, the right to lease such lands for farming and grazing purposes to members or nonmembers of the nation, the power to dispose of all minerals reserved under section 6 of this Act, the right to hunt and fish on such lands, and to license hunting and fishing by nonmembers of the nation and the right to regulate access to the shoreline of the reservoir.

SEC. 10. The Secretary of the Treasury, upon certification by the Secretary of the Interior, shall reimburse the Seneca Nation for all fees and expenses incurred in relation to the Allegheny River project, including the cost of engineering and appraising services: *Provided,* That such reimbursable fees and expenses shall not exceed in the aggregate $———: *And provided further,* That attorney fees shall be paid under the terms of a contract approved by the Secretary of the Interior.

SEC. 11. (a) Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(a) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of lands under this Act. Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(b) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of houses, barns, fences, wells, and other structures and improvements under this Act.

(b) Any individual Seneca Indian who has been duly tendered payment in accordance with the schedules prepared pursuant to section 3 (a) and (b) of this Act shall have the right to reject either or both of the sums so tendered by filing a notice of rejection with the Seneca Nation, Salamanca, New York, and the Chief of Engineers, United States Army, District of Columbia, within one year from the date of enactment of this Act, or within ninety days after the tender is made whichever date is later.

(c) For the purposes of this section, the Secretary of the Interior is authorized to represent any individual Seneca Indian entitled to payment who is a minor, or under any other legal disability, or who cannot be located after a reasonable and diligent search.

SEC. 12. (a) In all cases where a sum tendered in payment under section 3 (a) and (b) of this Act has been rejected by an individual Seneca Indian pursuant to section 11(b), jurisdiction shall be, and hereby is, conferred upon the United States District Court for the Western District of New York to determine just compensation in accordance, except as otherwise expressly provided herein, with the laws and procedures applicable to the determination of just compensation in condemnation proceedings. No court or statutory costs, but all other costs and expenses, including attorney's fees, shall be at the contesting individual's expense. Suit may be brought against the United States on behalf of any individual rejecting payment within one year after the date of the rejection.

(b) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(a) of this Act, and a suit is filed pursuant to this section, the contesting individual shall serve a copy of the complaint upon the Seneca Nation within ten days after commencement of the action. Within sixty days after service upon it of the complaint, the nation shall deposit in court the sum originally tendered to the plaintiff and, through the filing of an answer, may become a party to the suit. Any excess of the sum deposited over the amount finally determined as just compensation shall be paid back to the Seneca Nation. Any excess of the amount finally determined as just compensation over the sum deposited shall be paid by the United States.

(c) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(b) of this Act, and a suit is filed pursuant to this section, the United States shall not assert as a defense that any interest in the property is owned by the Seneca Nation.

(d) For the purposes of this section, any individual Seneca Indian eligible to file suit, who is a minor or under any other legal disability, shall be represented by his legal guardian or, if no guardian has been appointed, by the Secretary of the Interior.

SEC. 13. The Secretary of the Interior is hereby authorized, with the funds provided under section 4(f) of this Act, to purchase or to acquire through condemnation proceedings lands and interests in lands within the Allegany Reservation, or adjacent thereto, not in excess of — acres, for the relocation of houses, cemeteries, and community facilities, or for recreational and industrial development. Any lands so acquired outside the Allegany Reservation shall have the same legal status as lands within the reservation.

SEC. 14. The flowage easement and rights-of-way acquired by the United States under section 1 of this Act are identified and delineated on a map entitled, "Allegheny River Reservoir Within Allegany Indian Reservation, New York." Legal descriptions of the lands shown therein, and the estate taken, shall be prepared by the Secretary of the Army and attached thereto. The map and descriptions shall be filed among the land records of the Bureau of Indian Affairs in Washington, District of Columbia, and recorded in the office of the county clerk of Cattaraugus County, New York. A true and correct copy of the map and descriptions

shall be furnished without cost to the Seneca Nation.

SEC. 15. Upon a determination by the Secretary of the Army, within two years from the date of enactment of this Act, that any of the lands delineated on the map referred to in section 14 are not required for Allegheny River project purposes, or if at any time all or part of the flowage easement and rights of way acquired under section 1 of this Act no longer are necessary for such purposes, all rights, title, and interests in such lands shall be revested in the Seneca Nation.

SEC. 16. No part of any expenditures made by the United States under any of the provisions of this Act shall be charged by the United States as an offset or counterclaim against any claim, if any, of the Seneca Nation against the United States.

SEC. 17. All funds authorized by this Act paid to the Seneca Nation and individual Seneca Indians shall be exempt from all forms of State and Federal taxation.

SEC. 18. There is hereby authorized to be appropriated such amounts as may be necessary for the purposes of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert the following: "That in furtherance of the Allegheny Reservoir project authorized by the Flood Control Acts of June 28, 1938 (52 Stat. 1215), August 18, 1941 (55 Stat. 638), and December 22, 1944 (58 Stat. 889), payment shall be made as hereinafter set forth in this Act to the Seneca Nation and to the individual Seneca Indians for such easements, interests in land and other property within the Allegany Indian Reservation, more particularly described in section 14 of this Act, as have been taken for the construction, operation, and maintenance of said project.

"SEC. 2. In consideration for the interests in land acquired as set forth in section 1 of this Act, the United States will pay, out of funds available for the Allegheny Reservoir project, and in accordance with the provisions of section 3 hereof—

"(a) to the Seneca Nation, the amount of $666,285, as full compensation for the direct damages (including severance damages, but excluding damages caused by the increased difficulty or impossibility of developing or otherwise exploiting the subsurface resources retained by the nation under section 6) to lands within the Allegany Indian Reservation caused by the acquisition of interests therein by the United States;

"(b) to the Seneca Nation, the sum of $100,000, as full compensation for the damages caused by the increased difficulty or impossibility of developing or otherwise exploiting the oil and gas subsurface resources retained by the nation under section 6 of this Act: *Provided, however,* That the Seneca Nation shall have the right, in the condemnation proceedings instituted by the United States in the United States District Court for the Western District of New York, to seek an additional sum as just compensation due the nation for damages to the sand and gravel resources within the Allegany Indian Reservation caused by the acquisition of interests in land therein by the United States: *Provided further,* That in the event the Seneca Nation seeks such additional compensation, the district court under section 1358, title 28, United States Code, shall have jurisdiction to determine the just compensation due to the nation for said damages.

"(c) to individual Seneca Indians, a sum aggregating $522,775, to be disbursed in accordance with the provisions of a schedule prepared pursuant to section 3(c) of this Act, as full compensation for the taking of houses, barns, fences, wells, and other structures and improvements on lands within the Allegany Indian Reservation; and

"(d) to the Seneca Nation, the amount of $1,033,275, in full settlement of all other claims, rights, and demands of the nation and its members, including indirect damages and loss of access to the bed of the Allegheny River, arising out of the taking of property as set forth in section 1 of this Act, exclusive of the interest, if any, of the Seneca Nation in houses, structures, or other improvements within the Allegany Indian Reservation claimed by nonmembers of the nation.

"(e) In making payments under this section, the United States shall be entitled to a credit for all funds heretofore deposited in condemnation proceedings before the United States District Court for the Western District of New York as the estimated just compensation for the acquisition of interests in lands and other property belonging to the Seneca Nation or individual Seneca Indians in connection with the Allegheny Reservoir project.

"SEC. 3. (a) The payment authorized by section 2(a) of this Act shall be made directly to the Seneca Nation: *Provided,* That out of the funds so distributed to the nation a sum not exceeding $611,675 shall be paid to individual Seneca Indians in accordance with a schedule prepared by the Secretary of the Army, after certification by the nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the Seneca Nation, with the approval of the Secretary of the Interior, as compensation for the interests in land within the taking area of said individual Seneca Indians.

"(b) The payment authorized by section 2(b) of this Act shall be made directly to the Seneca Nation: *Provided,* That if the nation through litigation recovers additional compensation for damages to its sand and gravel resources, the United States shall be entitled to a credit against that supplemental award in the amount paid to the nation under section 2(a) for damages to the surface of the lands on which such sand and gravel are located.

"(c) The payments authorized by section 2(c) of this Act shall be made directly to individual Seneca Indians in accordance with a schedule of property owners within the taking area prepared by the Secretary of the Army, after certification by the Seneca Nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the nation, with the approval of the Secretary of the Interior, as compensation for the homes, barns, fences, wells, and other structures and improvements within the taking area of said individual Seneca Indians.

"(d) The payment authorized by section 2(d) of this Act shall be made directly to the Seneca Nation: *Provided,* That the nation, with the approval of the Secretary of the Interior, shall make available from the funds so distributed not to exceed $127,050, to pay the expenses, costs, losses, and damages incurred by individual Seneca Indians as a result of moving themselves and their possessions, including dwellings and other buildings owned by the members of the nation, on account of the acquisition by the United States of interests in land within the Allegany Reservation as set forth in section 1 of this Act.

"(e) No part of the compensation provided for in section 2 of this Act shall be subject to any prior lien, debt, or claim of any nature whatsoever against the Seneca Nation or the individual Seneca Indians entitled to such compensation, except for the repayment of development loans made to the Seneca Nation, or of housing or resettlement loans made to individual Seneca Indians, by a bank or other recognized lending institution, and also except for delinquent debts owed to the United States by the nation or delinquent debts owed to the United States or the Seneca Nation by the individual Seneca Indian entitled to the compensation: *Provided,* That such compensation shall not be applied to the payment of individual delinquent debts to the United States unless the Secretary of the Interior first determines and certifies that no hardship will result from the payment of such delinquent debts.

"SEC. 4. There is authorized to be appropriated the additional sum of $16,931,000, which shall be deposited in the Treasury of the United States to the credit of the Seneca Nation and which shall draw interest on the principal at the rate of 4 per centum per annum until expended, for assistance designed to improve the economic, social, and educational conditions of enrolled members of the Seneca Nation, including, but not limited to, the following purposes:

"(a) agricultural, commercial, and recreational development on the Allegany, Cattaraugus, and Oil Springs Reservations;

"(b) industrial development on the Seneca reservations or within fifty miles of any exterior boundary of said reservations;

"(c) relocation and resettlement, including the construction of roads, utilities, sanitation facilities, houses, and related structures;

"(d) the construction and maintenance of community buildings and other community facilities;

"(e) an educational fund for scholarship loans and grants, vocational training, and counseling services;

"(f) the acquisition of lands either within or contiguous to the Allegany Reservation, as authorized under section 13 of this Act; and

"(g) a resurvey of the boundaries of the villages established pursuant to the Act of February 19, 1875 (18 Stat. 330), together with a title search to determine the current status and extent of all leases issued by the Seneca Nation therein.

"The funds authorized by this section shall be expended in accordance with plans and programs approved by the Seneca Nation and the Secretary of the Interior: *Provided,* That no part of such funds shall be used for per capita payments.

"SEC. 5. The Secretary of the Army, out of funds appropriated for the Allegheny Reservoir project other than funds provided by this Act, is authorized and directed to relocate and reestablish within the Allegany Reservation such Indian cemeteries, tribal monuments, graves, and shrines inside the taking area as the Seneca Nation or the next of kin shall select and designate: *Provided,* That reinterment of individual remains, though not entire cemeteries, outside the boundaries of the Allegany Reservation also is authorized if so desired by the next of kin, but in such event reinterment to a site which exceeds the equivalent distance from the disinterment site to the farthest point at which reinterment could be made within the reservation boundaries will be made only if the next of kin agrees to pay the added cost: *And provided further,* That the Secretary of the Army is authorized and directed to provide a trust fund in an amount computed on the basis of $14.40 for each reinterment for the perpetual care and maintenance of the graves for the reinterments at the two cemetery relocation sites selected by the Seneca Nation.

"SEC. 6. All minerals of any kind whatsoever, including oil and gas, and sand and gravel, within the areas subjected to the interests in land acquired by the United States as set forth in section 1 of this Act, are hereby reserved to the Seneca Nation: *Provided,* That the exploration and development of such minerals, including oil and gas, and sand and gravel, within the taking areas shall be consistent with said interests in land and subject to all reasonable regulations of the Secretary of the Army necessary for the protection of the Allegheny Reservoir project.

"SEC. 7. Members of the Seneca Nation shall have the right without charge to remain on and use the lands subject to the interests in land acquired by the United States as set forth in section 1 of this Act until required to vacate at such times as may be fixed by the Secretary of the Army with the approval of the Secretary of the Interior and after consultation with the Seneca Nation: *Provided*, That the time for vacating in any event will not extend beyond January 1, 1965, unless the Secretary of the Army otherwise permits.

"SEC. 8. Up to sixty days before the date for vacating in accordance with section 7, the Seneca Nation on its common lands within the taking area for the Allegheny Reservoir project, and individual Seneca Indians on lands in which they have an interest as shown on the schedules described in section 3 (a) and (c) of this Act, shall have the right, without charge, to harvest crops, to cut and remove all timber, to mine and remove sand and gravel, and to salvage improvements: *Provided*, That if such rights are not exercised or are waived by said individual Seneca Indians within the time prescribed, the nation shall have an additional thirty days within which to exercise their rights on its own behalf: *Provided further*, That the crops harvested, the timber cut, the sand and gravel removed, and the salvage permitted by this section shall not be construed to be compensation.

"SEC. 9. The Seneca Nation shall have the right to use and occupy the taking area of the Allegheny Reservoir project within the Allegany Reservation for all purposes not inconsistent with the interests in land acquired by the United States as set forth in section 1 of this Act, including, but not limited to, the right to lease such lands for farming and grazing purposes to members or nonmembers of the nation, the power to dispose of all minerals reserved under section 6 of this Act, the right to hunt and fish on such lands, and to license hunting and fishing by nonmembers of the nation and the right to regulate access to the shoreline of the reservoir: *Provided*, That public access to the shoreline shall be provided and no charge shall be made to the public therefor: *And provided further*, That the use by the public of the water areas of the Allegheny Reservoir project shall be pursuant to such rules and regulations as the Secretary of the Army may prescribe.

"SEC. 10. The Secretary of the Treasury, upon certification by the Secretary of the Interior, shall reimburse the Seneca Nation for all fees and expenses incurred in relation to the Allegheny Reservoir project, including the cost of engineering and appraising services: *Provided*, That not more than $250,000 is authorized to be appropriated for such reimbursable fees and expenses: *And provided further*, That attorney fees shall be paid under the terms of a contract approved by the Secretary of the Interior.

SEC. 11. (a) Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(a) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of interests in land as set forth in section 1 of this Act. Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(c) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of houses, barns, fences, wells, and other structures and improvements under this Act.

"(b) Any individual Seneca Indian who has been duly tendered payment in accordance with the schedules prepared pursuant to section 3 (a) and (c) of this Act shall have the right to reject either or both of the sums so tendered by filing a notice of rejection with the Seneca Nation, Salamanca, New York, the district engineer, United States Army Engineer District, Pittsburgh, Pennsylvania, and the United States attorney for the western district of New York, Buffalo, New York, within ninety days after the tender is made.

"(c) For the purposes of this section, the Secretary of the Interior is authorized to represent any individual Seneca Indian entitled to payment who is a minor, or under any other legal disability, or who cannot be located after a reasonable and diligent search.

SEC. 12. (a) Any individual Seneca Indian who, pursuant to section 11(b) of this Act, rejects a sum tendered in payment under section 3 (a) or (c), or both, shall have the right to litigate the issue of just compensation in the United States District Court for the Western District of New York. The court shall, except as otherwise expressly provided herein, determine just compensation in accordance with the laws and procedures applicable to the determination of just compensation in condemnation proceedings in the Federal courts. No court or statutory costs, but all other costs and expenses, including attorney's fees, shall be at the contesting individual's expense.

"(b) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(a) of this Act, and the United States has instituted condemnation proceedings, the Seneca Nation within sixty days shall deposit in court the total amount paid to it pursuant to section 2(a), less any credit given the United States under section 2(e), for the interests in land acquired by the United States which are the subject of the contesting individual's claims. Any excess of the sum so deposited over the amount finally determined as just compensation for the interests in land, if any, of the contesting individual shall be paid back to the Seneca Nation. If the amount finally determined as just compensation for all interests in land acquired by the United States which are the subject of the contesting individual's claim exceeds the sum deposited by the Seneca Nation, the difference shall be paid into court by the United States, and the total amount so paid and deposited shall be distributed as directed by the court.

"(c) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(c) of this Act, and the issue of just compensation is litigated, the United States shall not assert as a defense that any interest in the property is owned by the Seneca Nation.

"(d) For the purposes of this section, any individual Seneca Indian eligible to file suit, who is a minor or under any other legal disability, shall be represented by his legal guardian or, if no guardian has been appointed, by an attorney appointed by the Court.

"SEC. 13. The Secretary of the Interior is hereby authorized, with the funds provided under section 4(f) of this Act, to purchase or to acquire through condemnation proceedings lands, and interests in lands, within the Allegany Reservation, for the relocation of houses and community facilities or for recreational, commercial, or industrial development, or contiguous to the Allegany Reservation for recreational or commercial development. Any lands so acquired outside the existing reservation shall become a part of the reservation and have the same legal status as lands within the reservation.

"SEC. 14. The interests in land required for the Allegheny Reservoir project within the Allegany Indian Reservation are generally identified and delineated on a map entitled 'Allegheny River Basin, Allegheny Reservoir, New York, General Map'. Detailed legal descriptions of the lands shown thereon, together with tract maps, are or shall be filed in condemnation proceedings which have been instituted by the United States in the United States District Court for the Western District of New York for the acquisition of easements, interests in land, and other property within the Allegany Indian Reservation. The estates taken shall be as specifically set forth in the complaints filed in said proceedings, except insofar as the court may determine that the condemnation by the United States of any easement, interest in land, or other property identified therein for the construction of a limited access highway to be made a part of the New York State Southern Tier Expressway has not been authorized, in which event said estate shall not be taken. Copies of the final decree and other appropriate papers in said condemnation proceedings setting forth legal descriptions of the lands and the estates taken, together with identifying tract maps, shall be filed among the land records of the Bureau of Indian Affairs in Washington, District of Columbia, and recorded in the office of the county clerk of Cattaraugus County, New York. A true and correct copy of said papers shall be furnished by the Secretary of the Army without cost to the Seneca Nation.

"SEC. 15. Upon a determination by the Secretary of the Army that all or part of the interests in land acquired as set forth in section 1 of this Act no longer are necessary for purposes of the Allegheny Reservoir project, all right, title, and interests in such lands shall thereupon vest in the Seneca Nation.

"SEC. 16. No part of any expenditures made by the United States under any of the provisions of this Act shall be charged by the United States as an offset or counterclaim against any claim of the Seneca Nation against the United States other than claims arising out of the acquisition of interests in land for the Allegheny Reservoir project.

"SEC. 17. All funds authorized by this Act paid to the Seneca Nation and individual Seneca Indians shall be exempt from all forms of State and Federal taxation."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

Mr. HUDDLESTON. I object, Mr. Speaker.

Mr. WILLIAMS. Mr. Speaker, will the gentleman withhold his objection so that I may make an inquiry?

The SPEAKER. Will the gentleman from Alabama reserve the right to object so that he may yield to the gentleman from Mississippi?

Mr. HUDDLESTON. I reserve the right to object, Mr. Speaker.

Mr. WILLIAMS. Mr. Speaker, may I inquire of the majority leader if there will be any effort to arbitrarily cut off debate in the consideration of the bill on tomorrow?

Mr. ALBERT. Mr. Speaker, in response to the gentleman, I would like to say, of course, we are sincerely hoping we may finish this bill tomorrow. But we will not do anything contrary to the expressed interest of the gentleman, as we have not done.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. HUDDLESTON. I yield to the gentleman.

Mr. HALLECK. I take it the observation just made by the gentleman from Mississippi would restrain any Member from objecting to extensions of time in connection with amendments that are offered tomorrow. In other words, that would be an individual matter in respect to which one objection could limit the time to 5 minutes?

Mr. WILLIAMS. Did the distinguished minority leader address his remarks to me?

Mr. HALLECK. Either to the gentleman from Mississippi or to the majority leader.

Mr. ALBERT. Mr. Speaker, as far as the leadership is concerned, we will not undertake to limit time either under debate generally or amendments or on the part of individuals. But, of course, every Member of the House has the right to hold Members to the 5-minute rule. It requires unanimous consent to address the House for more than 5 minutes on any amendment.

Mr. HALLECK. I join with the majority leader in expressing the very earnest hope that action on this matter can be completed tomorrow night. As a matter of fact, this debate has proceeded without any limitations on time. It has been a good debate. We are dealing here with a highly complicated and complex matter on which there are many differences of opinion. But, on the other hand, I cannot see any reason why the remaining titles, only one of which I understand is of any great importance, cannot be dealt with tomorrow and disposed of tomorrow so that this matter may be concluded.

Mr. WILLIAMS. Mr. Speaker, further reserving the right to object, the gentleman from Indiana has intimated—at least I got that inference—from what he said that objection will be made to anyone's speaking under the 5-minute rule longer than 5 minutes: that is, so far as getting additional time under the 5-minute rule is concerned.

I would remind the gentleman from Indiana that we have not employed any dilatory tactics in the consideration of this bill. All of the debate has been germane and to the point, and has been directed to the issue before the House. None of the debate has been for the sake of delay. I think the gentleman will agree with me on that.

Mr. HALLECK. I certainly agree with the gentleman from Mississippi.

Mr. WILLIAMS. There are many Members of the House who feel they should speak on this bill. I, for one, have refrained from using any time on this bill. However, I think that coming from a State that has more than 40 percent of its population that is colored, I should be entitled to 10 or 15 minutes on the floor. I hope the gentleman will be discreet in the matter of permitting Members so vitally affected to speak longer than 5 minutes.

Mr. HALLECK. May I say to the gentleman, I did not mean to intimate anything. I just wanted it understood that if someone on this side or on any side of the aisle did choose to object, it would not be, as I understand the rules of procedure, in violation of the rules. But, of course, I am not inviting any Member to object.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman.

Mr. ALBERT. Of course, it would not be a violation of the rules to object to a Member getting additional time. I think the general pattern of debate has been set. I think what the gentleman has said with respect to the matter of having ample discussion of important amendments has been observed and it seems to me the important thing here is, as the gentleman from Indiana has said, that one of the more controversial titles is to be considered tomorrow.

It would be my hope—and I believe the hope of most Members—that the tone and pattern which have heretofore been followed will be the order of the day tomorrow.

Mr. WILLIAMS. In the light of the remarks made by the majority leader and the assurance—insofar as he can give it—that this program will be followed, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. HUDDLESTON. Mr. Speaker, I believe I reserved the right to object a few moments ago.

With the understanding, I am sure, that all who are of like mind with me will have freedom of debate on the title VII which will come up tomorrow, with the assurance that we will have full consideration of each and every section of that title, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LOUISIANA MARDI GRAS BALL

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, at this point I would like to revise and extend my remarks which I began this morning.

This year's Mardi Gras Ball is unusually well endowed with a wealth of lovely young ladies, representing most of our States major fairs and festivals.

The queens gracing this year's Mardi Gras Ball include—

Miss Linda Lee Breaux, of Abbeville, Louisiana Dairy Festival.

Miss Gail Broussard, New Iberia, Louisiana Fur and Wildlife Festival.

Miss Judy Broussard, Breaux Bridge, Crawfish Festival.

Miss Jane Burrill, Monterey, Future Farmers of America.

Miss Jo Ann Bussee, Glynn, Louisiana Sugar Cane Festival.

Miss Joy Castille, Chalmette, Chalmette Tomato Festival.

Miss Diane Catanese, Shreveport, Holiday in Dixie.

Miss Brenda Daigle, Branch, International Rice Festival.

Miss Shirley Kay Dalme, Natchitoches, Merry Christmas Festival.

Miss Daphne Aline Delhomme, Lafayette, Town House Order of Troubadours.

Miss Catherine F. Deshotels, Ville Platte, Louisiana Cotton Festival.

Miss Carmen Dubroc, Moreauville, Louisiana Livestock and Pasture Festival.

Miss Brenda Dunaway, Bogalusa, Rose Festival.

Miss Janet Faye Freemin, Gueydan, Louisiana Farm Bureau.

Miss Joyce Garrett, Ruston, Louisiana Peach Festival.

Miss Elna Hardee, Morgan City, Louisiana Shrimp Festival.

Miss Carol Hetherwick, Lafayette, Southwest Louisiana Mardi Gras Carnival.

Miss Ann Jennings, Lafayette, Louisiana, Gulf Coast Oil Exposition.

Miss Terry Ledet, Bogalusa, American Legion Magic Post.

Miss Patsy Manuel, Ville Platte, Tournoi Festival.

Miss Elizabeth Marseilles, Metairie, New Orleans Floral Trail.

Miss Robbie McMillin, Jonesville, Louisiana Soybean Festival.

Miss Teresa Nemeth, Hammond, Louisiana Strawberry Festival.

Miss Ginger Sue Powell, Slidell, Ozone Camellia Festival.

Miss Sylvia Rester, Bogalusa, Paper Festival.

Miss Donna Robertson, Opelousas, Vermillion Fair and Stock Show.

Miss Mary Scanlan, Gueydan, Delcambre Fish Industry.

Miss Harriet Scott, Arnaudville, Yambilee Festival.

The maids participating in this year's ball are—

Miss Barbara Jean Abdalla, of Lafayette.

Miss Lynn Bordelon, of Marksville.

Miss Carol Sue Cribbs, of Lafayette.

Miss Janet Kay Cribbs, of Lafayette.

Miss Cathy Enright, of Washington, D.C.

Miss Becky Larguier, of Baton Rouge.

Miss Cherie Martin, of Pineville.

Miss Mary Jane McNeely, of Kensington, Md.

Miss Madalyn Thomas, of Ville Platte.

Miss Mary C. Bolton, of Alexandria.

Miss Cynthia Fink, of Eunice.

Miss Susan B. Sperry, of Monroe.

Miss Lalia Leigh Sutherlin, of Alexandria.

This ball, like those of years past, is a living symbol of our State. It represents the many-faceted personality of Louisiana, with its parade of history and legend.

Its success, which has grown with each passing year, can best be measured in terms of the people who have worked each year to make the ball superior to its predecessor.

Felix M. Broussard, a Silver Spring, Md., insurance executive, has been for a number of years president of the

Louisana State Society, and is serving in that function again this year. He is one of the prime movers of the Mardi Gras celebration.

Mrs. Gloria Knox, of Lafayette, La., and Dr. Gab Ackal, of New Iberia, La., have also made important contributions to the Mardi Gras Ball.

Today our visiting queens and families were especially delighted to be greeted by President Lyndon B. Johnson at the White House. The President took time from his busy schedule to greet our people, and we were very grateful.

We were also greatly honored to have the pleasure of the honored Speaker's company at our annual luncheon with the members of the Louisiana congressional delegation, today.

With the efforts of my esteemed colleagues in the House of Representatives and our fine Senators, RUSSELL B. LONG and ALLEN ELLENDER, the ball is expected to be a fitting tribute to the State of Louisiana and its importance as a vital link in the age of space.

EXPLANATION OF H.R. 7152

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ROGERS of Colorado. Mr. Speaker, the Denver Post, an outstanding daily newspaper published at Denver, Colo., caused to be published an excellent analysis of the civil rights bill, H.R. 7152. This analysis is contained in eight good editorials. It is my hope that all members will read them and have a better understanding of the "Civil Rights Act of 1964." The editorials are as follows:

THE CIVIL RIGHTS BILL—I—STRENGTHENING THE RIGHT TO VOTE

The civil rights bill of 1964 is a complicated 87-page document, with 10 sections, more than 20,000 words, and enough legal terminology to discourage all but the most determined readers.

Yet with all its difficulties, the bill probably constitutes the most important contribution to the Amercan heritage of freedom since the Emancipation Proclamation of 1863.

It deserves to be understood and supported by people who prize that heritage. To contribute toward that end, the Denver Post begins today a series of editorials, providing a section-by-section analysis.

A good deal of misinformation about the bill has been disseminated by its enemies. This series is an attempt to clear the air, to indicate what the bill says and what it does not say and to explain what the bill is designed to accomplish.

The purpose of the first section—title I—is "to enforce the constitutional right to vote," a right which is now denied or severely restricted in many sections of the American South.

In at least 250 counties, Negro registration has been held below 15 percent of the Negroes of voting age, and in some of these counties no Negroes are registered at all. What makes this all the more dismaying is that in some of these same counties white registration substantially exceeds the total white population.

Here are some examples prepared by Representative WILLIAM M. MCCULLOCH, of Ohio, the ranking Republican on the House Judiciary Committee:

	Population over 21	Registered voters
County A:		
White	2,624	2,810
Negro	6,085	0
County B:		
White	1,900	2,250
Negro	5,122	0
County C:		
White	1,649	1,979
Negro	5,001	275

To cope with glaring inequities of this sort, Congress passed civil rights laws in 1957 and 1960 providing for civil injunction suits and the appointment of referees to speed up registration.

But voting officials and some judges—through delays, redtape, evasions, and outright defiance of the law—have thwarted the purposes of these earlier acts. Some cases have had to wait more than 2 years for decisions. Individual judges have sometimes refused to act in the face of the most convincing evidence.

Meanwhile, registration and voting officials have been giving Negroes more difficult literacy tests than they give to whites, disenfranchising Negroes because of minor errors on written tests or simply neglecting to act on Negro applications.

As a result, progress in Negro registration has been glacial. In Mississippi and South Carolina together, 1,000 more Negroes were stricken from the voting lists than were added. In Louisiana 3,500 Negroes were dropped from the lists. In States where gains were made, they were small ones.

Title I of the civil rights bill of 1964 is designed to cope with this situation. This is what it would do:

First, it would make it unlawful to use different standards for different individuals in determining whether they are qualified to vote—all would have to be judged in the same way.

Second, it would make it unlawful to deny anybody the right to vote because of a written error or omission that is not really material in judging his qualification.

Third, it would make it unlawful to use literacy tests unless they are written and unless a certified copy of the completed test is furnished to an applicant within 25 days of his request. An oral test may be given, however, if the applicant requests it and State law allows it.

Fourth, it would create a "rebuttable presumption" that any competent person with a sixth grade education has sufficient literacy to vote. To rebut this presumption, officials would have to prove in court that the person did not have sufficient literacy.

Fifth, it would allow the Attorney General in voting cases to ask for a special three-judge Federal court. The three judges would have to be assigned to the case immediately and they would have to see to it that the case was in every way expedited. Appeals from the decisions of such courts would go directly to the U.S. Supreme Court.

Sixth, when the Attorney General didn't ask for a three-judge court, title I would require the chief judge of a Federal district court to assign a district judge to the case immediately or notify the circuit court to assign one.

We do not suggest that these provisions, in themselves, would secure Negro voting rights overnight. But they would help considerably, and the help they would give is badly needed.

In a democratic society, built in large measure around the right of the people to vote, title I represents the very least the Nation can do to make that right meaningful for millions who are now denied it.

THE CIVIL RIGHTS BILL—II—BANNING BIAS IN PUBLIC ACCOMMODATIONS

The most controversial part of the civil rights bill of 1964 is title II, the section dealing with discrimination and segregation in places of public accommodation.

Title II makes discrimination and segregation unlawful in establishments that serve the public, if their operations affect commerce or if the discrimination and segregation are required by State law or supported by State action.

The title covers hotels, motels and lodging houses, except those that rent less than six rooms and have an owner living on the premises. It also covers most restaurants, lunchrooms, lunch counters, soda fountains, movie houses, gasoline stations, theaters, concert halls, sports arenas and other places of "exhibition or entertainment." It does not cover private clubs.

"All persons," the bills says, "shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations" of the covered establishments "without discrimination or segregation on the ground of race, color, religion or national origin."

It is unlawful, under title II, for anyone to deny these rights or interfere with them.

In making equal access to public accommodations a national right, title II would supplement the public accommodation laws which are already on the statute books of 32 States, including Colorado. Many of these laws reflect the old common law principle that inns and way stations must be open to all people who behave themselves.

In States where these laws do not exist—and in some States where they do—the evidence is abundant that discrimination and segregation in places of public accommodation are a daily source of humiliation and hardship to American Negroes.

Negro vacationists sometimes have to drive hundreds of miles to find a restroom or a night's lodging or a place where they can buy their children an ice cream cone or a soft drink. Negro truck drivers cannot be sent on overnight runs in some sections of the country because of the lack of accomomdations.

By discouraging Negro travel and Negro participation in interstate activities, discrimination and segregation tend to impose a burden on interstate commerce of the kind Congress has traditionally been willing to remove through legislation.

Congress can act in the field of public accommodations both under its power to regulate commerce and under the 14th amendment, which is especially suited to strike at discrimination and segregation enforced by State laws.

The late President Kennedy summed up the legal argument for the public accommodations provisions in these words:

"No property owner who holds his premises for the purpose of serving at a profit the American public at large can claim any inherent right to exclude a part of the public on grounds of race or color.

"Just as the law requires common carriers to serve equally all who wish their service, so it can require public accommodations to accommodate equally all segments of the general public."

For businessmen, whose wages, hours, sanitation, ventilation, light, recordkeeping, and business practices are already regulated by various Federal, State, and local laws, the requirement that they must serve the public impartially does not constitute any radical new precedent in governmental interference.

Title II would operate through enforcement provisions which would allow aggrieved individuals or the U.S. Attorney General to seek injunctive relief in the Federal district

courts when public accommodation rights have been denied or interfered with.

Where State or local public accommodation laws were in effect, the Attorney General would be required to notify State or local officials and give them a chance to enforce their own laws before taking action himself.

In any case, he might use the services of Federal, State, and local agencies to help persuade the violator of the law to comply voluntarily. But he could seek an injunction immediately, if he certified that delay would "adversely affect the interests of the United States" to make the compliance ineffective.

A person who persisted in violating the law after the court ordered him to stop could be tried for contempt. But if he were tried for criminal contempt without a jury and sentenced to a fine higher than $300 or imprisonment beyond 45 days, he could obtain a new trial before a jury.

The enforcement provisions leave enough room for conciliation and persuasion and provide ample protection for the rights of the accused. They help to make the civil rights bill a fair and constructive piece of legislation. Title II is an essential part of the civil rights package.

THE CIVIL RIGHTS BILL—III—CLEARING THE BARRIERS IN PUBLIC FACILITIES

"It is no longer open to question," the Supreme Court of the United States said last year, "that a State may not constitutionally require segregation of public facilities."

What cannot be done constitutionally, a number of Southern States and their local subdivisions have continued to do unconstitutionally for many years.

In a number of communities, public parks, public libraries, public swimming pools, public golf courses, and other public facilities remain segregated or else are closed to Negroes altogether.

These "public facilities" are distinct from the "places of public accommodation" discussed yesterday in that they are owned by the State or locality and built or maintained with public money. The "places of public accommodation" are usually privately owned.

When complaints against the segregation of public facilities are carried far enough in the courts, the segregation is invariably struck down. But many aggrieved individuals cannot afford to go to the courts or are kept from doing so by the fear of reprisals.

Title III of the civil rights bill of 1964 is designed to provide such people with help from the Attorney General of the United States.

The Attorney General is empowered by title III to bring a court action (1) if he receives a complaint from an individual to the effect that the individual has been denied "the equal protection of the laws" by not being allowed full use of a public facility; (2) if the Attorney General certifies that the individual is unable to start and maintain a lawsuit of his own, and (3) if he certifies that a court action will further the public policy of the United States "favoring the orderly progress of desegregation in public facilities."

The Attorney General can consider that a person is unable to seek court relief himself if the person can't bear the expense, can't get other persons or organizations to finance the suit or might jeopardize his job or face personal injury or economic damage if he went to court.

Title III also gives the Attorney General power to intervene in—but not to initiate—suits seeking relief from other kinds of denials of the "equal protection of the laws" in addition to the denial of the full use of public facilities.

This would presumably authorize Federal intervention in cases involving restraints by local officials on the rights of free speech, assembly and petition. It could cover cases in which individuals were treated differently by the police because of their race, including cases of police brutality.

The Attorney General's intervention in such cases could prove extremely valuable to individuals with limited resources, meeting setbacks by arbitrary local judges and needing costly and time-consuming appeals to the higher courts.

It would be better, we believe, if this power to intervene in a broad range of cases not related to public facilities were conferred under a separate title and not included in title III.

But the intervention provision is a valuable one, and we support it along with the public facilities provisions of the title. The title as a whole would strengthen the "equal protection of the laws" assured in the 14th amendment in a way that is practical and very badly needed.

THE CIVIL RIGHTS BILL—IV—NEW HELP FOR SCHOOL DESEGREGATION

Nearly 10 years after the Supreme Court outlawed racial segregation in the public schools of the Nation, segregation was still the rule last fall in 67.9 percent of the biracial school districts in the 17 States and the District of Columbia where school segregation was practiced before the Court acted.

Although the other 32.1 percent of the districts had been integrated—at least to some extent—the experts were estimating that it would take until the year 2063 to finish the job, if integration continued to move at the same pace.

Title IV of the civil rights bill of 1964 is designed both to speed the process and to make it smoother and less painful.

The U.S. Attorney General is empowered, under title IV, to start a civil court action if he receives a complaint from parents that their children are being denied the "equal protection of the laws" because of the failure of a school board to desegregate or because they are being kept out of a public college on racial grounds.

But he may start the action only if he can certify first that the signers of the complaint can't afford to start a lawsuit themselves or have reason to fear personal or economic reprisals if they do so.

He must also certify that his action "will materially further the public policy of the United States favoring the orderly achievement of desegregation in public education."

These provisions of title IV would put new Federal power behind the drive for school desegregation. But other parts of the title create new forms of Federal assistance to help communities get through the difficulties desegregation often raises.

The U.S. Commissioner of Education would be authorized by title IV to give technical assistance to communities, States, or school districts that ask for it in order to prepare and carry out desegregation plans.

The Commissioner could send experts to communities who want them and supply information on effective methods of coping with the special educational problems occasioned by desegregation.

He could also arrange with colleges or universities to set up special short-term institutes to provide special training for teachers, supervisors, counselors and other school personnel in districts about to desegregate. He could provide these people with stipends, travel money, and allowances for dependents while attending the institutes.

He could also make grants to school boards to pay the cost of giving teachers and school personnel inservice training in dealing with desegregation problems and to pay the cost of hiring specialists to advise on desegregation.

In making these grants, the Commissioner would have to keep in mind the limits of his budget, the financial position of the applicants and the gravity of their problems.

The Commissioner is instructed to make a survey and report to Congress and the President within 2 years on the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin.

Both the new powers given the Attorney General and the new assistance made available to school districts under title IV seem to us to be worthwhile. Title IV adds substantially to the strength of the whole civil rights bill.

THE CIVIL RIGHTS BILL—V—BOLSTERING THE RIGHTS COMMISSION

The U.S. Commission on Civil Rights has been on the job since 1957, investigating the effects of racial discrimination, segregation, and denials of civil rights on the Nation and its people.

Its hearings and reports have brought to light a good deal of information that is useful in shaping public policy, and its existence has tended to discourage some of the injustices that fall within its area of inquiry.

But the Commission has never had permanent status, and Congress has come close to letting it die several times. It was saved in 1959 and 1961 through special last-minute riders on appropriation bills, which gave it 2-year extensions. Last year, an amendment to a private bill gave the Commission 1 more year of life.

In this tenuous and uncertain situation, the Commission has had difficulty holding onto its staff and keeping up the staff's morale. Its recurring encounters with extinction have weakened its prestige and effectiveness.

Title V of the civil rights bill of 1964 would ease the difficulties of the U.S. Civil Rights Commission by giving it permanent status. Title V would also expand its functions and improve its procedures.

Under the Civil Rights Act of 1957, the Commission has had the duty (1) to investigate complaints that citizens are being deprived of their right to vote, on racial, ethnic, or religious grounds; (2) to study legal developments (presumably in the States) that lead to a denial of the "equal protection of the laws"; and (3) to appraise Federal laws and policies with respect to "equal protection of the laws."

Title V, in the civil rights bill of 1964, would add two further duties: (1) to serve as a national clearinghouse for information on "equal protection" in the fields of voting, education, housing, employment, transportation, and others; and (2) to investigate complaints of voting frauds, including those that deprive citizens of the right to have their votes "properly counted."

The rules of procedure of the Commission were very carefully spelled out in 1957, at the insistence of Southern legislators, to protect the rights of persons who might be accused of violating the rights of others.

A 1964 rule gives the Commission the right to take defamatory or embarrassing testimony in public session, provided it gives the persons involved the opportunity to appear voluntarily as witnesses and considers their requests to subpena additional witnesses.

Finally, title V gives the Commission the power, for the first time, "to make such rules and regulations as it deems necessary to carry out the purposes of the act."

A good deal of title V is concerned with minor procedural and administrative matters. But in perpetuating and strengthening the U.S. Civil Rights Commission, the title makes an important contribution to the effectiveness of the whole civil rights bill.

THE CIVIL RIGHTS BILL—VI—SHUTTING OFF FEDERAL FUNDS

It is one of the ironies of the American race problem that a substantial amount of discrimination and segregation is carried on

with funds supplied by the Government of the United States.

A number of hospitals, built and equipped with Federal money under the Hill-Burton Act, refuse to accept Negro patients, or segregate them, and deny staff privileges to Negro doctors.

A number of local officials have excluded needy Negro children from the federally financed school lunch program or refused to distribute to needy Negro families the surplus commodities provided by the U.S. Department of Agriculture.

A number of universities and research centers, working on federally financed research, operate on a segregated basis. And segregation still prevails in a number of schools built, maintained, and operated with Federal money under the impacted areas program.

These are only a few of the ways in which Federal money is serving to thwart the success of Federal policies on civil rights. Title VI of the civil rights bill of 1964 is designed to halt the use of Federal money in this manner.

The title declares that "no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Each Federal agency or department that extends financial assistance is instructed to operate in conformity with that declaration. The department or agency may set up rules and regulations and then act against violators "by the termination of or refusal to grant or to continue assistance" or "by any other means authorized by law."

Before it acts, however, the department or agency must advise the violators of their failure to comply and must make sure "that compliance cannot be secured through voluntary means." Its actions are subject to review in the courts.

Some Congressmen who have worked on the civil rights bill are convinced that the purposes of title VI can be achieved in many cases through the application of persuasion and commonsense without actually cutting off Federal assistance.

They point out that, in 1962, 11 colleges and universities in the South agreed to admit qualified Negroes to summer courses financed under the National Defense Education Act, rather than face the loss of Federal assistance.

The State of Mississippi, a few years ago, agreed to open a veterans hospital to citizens of all races rather than have no hospital at all. And this year, Florida and Texas desegregated several schools constructed and maintained under the impacted areas laws rather than lose the Federal money.

Where persuasion does not work, the Government would be expected to cut off funds from the county or area immediately involved in a specific program, and not necessarily halt all aid to the whole State.

Title VI gives the Government an important new weapon in carrying out its civil rights policy. It adds substantially to the strength of the civil rights bill.

THE CIVIL RIGHTS BILL—VII—TARGET IS RACIAL BARRIERS TO JOBS

To America's 20 million Negroes, the right to earn a living is perhaps more fundamental than any other covered in the Civil Rights bill of 1964. That right is now substantially curtailed by job discrimination all over the Nation.

The Negro unemployment rate is twice as high as the rate for whites. Negro earnings are only a little more than half as high and many of the better jobs in the Nation are closed to Negroes altogether.

Because of job barriers, the potential contribution of Negroes to American society has been unfulfilled. They contribute less to American production; they buy less of American goods and services; they cost the society more in unemployment and welfare benefits than they would if the barriers were down.

To improve job opportunities for Negroes, 25 States have enacted fair employment practices laws. Title VII of the civil rights bill of 1964 would establish somewhat similar legislation for the whole United States.

Congress declares in title VII that "the opportunity for employment without discrimination" because of race, color, religion, or national origin is "a right of all persons within the jurisdiction of the United States." It seeks to implement that right through title VII in order "to remove obstructions to the free flow of commerce" and to insure the enjoyment by all persons of their constitutional rights, privileges, and immunities.

Title VII makes it an "unlawful employment practice" for an employer to refuse to hire or promote, to segregate, or to discriminate on the job against anybody because of his race, religion, color, or national origin.

It would also be an "unlawful employment practice" for an employer with 25 or more employees to refuse to hire or promote, to segregate, or to discriminate on the job against anybody because of his race, religion, color, or national origin.

A labor union would be guilty of an "unlawful employment practice" if it excluded anyone from membership on these grounds, if it segregated its membership, if it interfered with anyone's job opportunities on these grounds or tried to force an employer to discriminate. Discrimination would also be unlawful in apprenticeship programs, and it would be barred from employment advertising.

The bill is not intended to affect an employer's right to reject, demote, fire, or otherwise discipline an employee for good cause. The stipulation is that these things may not be done on racial, religious, or ethnic grounds.

Title VII sets up a five-member Equal Employment Opportunity Commission and empowers it to go to court in civil actions to halt or prevent "unlawful employment practices." Before it goes to court, however, the Commission must first investigate and then seek to bring an end to the unlawful practice "by informal methods of conference, conciliation, and persuasion." An aggrieved individual can go to court on his own, if one member of the Commission consents.

The court actions can only apply to offenses that occur in the 6 months before they are brought. If the court is satisfied that an offense took place, it can issue an appropriate injunction or, in some cases, award back pay.

The Fair Employment Opportunity Commission may work through similar State agencies. It may require accused persons to produce records. The bill requires employers, employment agencies, and labor unions to keep special records and to post notices.

Title VII is the longest and most complicated section of the civil rights bill. Not all of its details can be covered here. But the provisions discussed above show its general purpose and approach. Certainly the purpose is just.

THE CIVIL RIGHTS BILL—VIII—ISSUE FACES TEST IN THE HOUSE

During the last week in these columns, the Denver Post has been presenting a section-by-section analysis of the civil rights bill of 1964, one of the most important measures to come before Congress in our time.

We have described the first seven titles of the bill in considerable detail. The last three, titles VIII, IX, and X, are shorter and less substantial, and they require less attention.

Title VIII directs the Secretary of Commerce to conduct a survey to compile voting and registration statistics in areas recommended by the Commission on Civil Rights.

Title IX provides that an order by a Federal judge returning a case to the State court from which it was removed is subject to appeal. Some southern Federal judges had been using the unappealable remanding order as a device to avoid granting judicial relief to aggrieved citizens. Under title IX, these orders are subject to judicial review.

Title X declares that the bill must not be construed to impair or deny rights or powers of the Attorney General which are not mentioned in it. The title also authorizes the appropriation of funds to carry out the purposes of the bill, and it provides that if any part of the bill is ruled invalid, the rest shall not be affected.

The civil rights bill of 1964 has now reached the floor of the House of Representatives, where it is being debated this week.

We hope that debate can be held to reasonable limits, since the bill has already been subjected to careful scrutiny by two committees of the House and has been before the Congress in one form or another for 7 months.

We hope also that the House will pass it by the strong margin it deserves, and that Colorado's four Congressmen will work for it and vote for it in its present form.

As a member of the House Judiciary Committee, Representative BYRON G. ROGERS of Denver played an important part in developing the bill and will undoubtedly vote for it.

But ROGERS and the other Colorado Congressmen—DONALD BROTZMAN, J. EDGAR CHENOWETH, and WAYNE ASPINALL—would benefit at this critical time by receiving mail from Coloradans expressing their support for the bill.

All four Congressmen can be addressed at the House Office Building, Washington, D.C. By writing them at this time, supporters of the bill may help to contribute toward its passage.

This newspaper has endorsed the bill. We are confident the House will understand the historic opportunity the Civil Rights Bill offers and will approve it with reasonable speed and send it on to the Senate.

VIOLENCE IN PANAMA

Mr. SIBAL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIBAL. Mr. Speaker, the eruption of violence in Panama has come as another complete surprise to our Department of State. This element of surprise is becoming the hallmark of our foreign policy as it is being conducted under this administration. This is in vivid, and regrettable, contrast to the foresight and firmness with which the Eisenhower administration anticipated and met similar threats to international security. As examples we may recall the manner in which the Lebanese and Guatemalan crises were handled.

In the case of Panama, unawareness on the part of our Government is even more astonishing and inexcusable than in most cases.

For years there has been a burgeoning of nationalistic spirit in Panama, assiduously fostered by our Communist enemies operating out of their Cuban base.

Panamanian nationalism has been rising to a fever pitch over the last year or so, as was evident to any observer with an eye trained in Latin American affairs. Reports to this effect were appearing in the public press a year ago.

Our Ambassador to Panama, who left last August, Mr. Joseph Farland, had one of the most perceptive minds and was one of the most experienced and successful of our Latin American Ambassadors. It was most unfortunate that we lost the services of Mr. Farland and that the administration has left this vital post vacant for 6 months. A situation of obvious danger was developing and there was great need to have an Ambassador on the scene who could speak with the authority of the President's personal representative.

The absence of an Ambassador on the scene is only one part of the problem in Panama, however. The vacancy of this post is only a symptom of a deeper disorder within our foreign policy apparatus.

It is clear that there is an extremely serious breakdown in the flow of information from the field to the various echelons in the State Department and intelligence agencies to the top policymakers.

I do not know where this breakdown is occurring or who or what may be causing it. It may be the fault of individuals in the various departments, or it may be the fault of the system itself. It may be a combination of both.

Whichever it is, we are experiencing a breakdown in our intelligence and policymaking operations which is extremely dangerous to the national security.

Many of us recognize this and have introduced legislation calling for creation of a joint congressional committee to keep watch over all intelligence activities of the Federal Government. Too much is at stake for the Congress to be left out of close participation in these vital matters of national security.

GHANA'S APPRECIATION OF OUR FOREIGN AID

Mr. BRAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRAY. Mr. Speaker, our continuing policy of injuring our friends by helping our enemies is causing our country increasing difficulties. The recent attacks by Ghana against the United States is a striking example of "the chickens coming home to roost."

On July 11, 1962, I pointed out the folly of giving Ghana increased foreign aid. Before further discussing the recent Ghanaian attacks on the U.S. Embassy and the desecration of the American flag, I will point out in some detail the remarks I made 2 years ago in opposing foreign aid to Ghana.

When Ghana became independent in 1957, it had nearly a billion dollars in its treasury, practically no indebtedness and a very successful and flourishing chocolate industry developed during the years it was still a British colony. It had less need for outside aid than any other country in north or central Africa. Since 1957, and in spite of Nkrumah's total hostility toward the West and his close alliance with the Communists, the United States has given almost $170 million in loans and grants to Ghana.

This includes $7 million for beginning the construction of a great power-producing project on the Volta River. This amount was contained in the 1962 foreign aid bill. During debate on this bill on July 11, 1962, I spoke against this particular item, pointing out that while the amount was small, it was merely a foot in the door and the project would cost many times that before construction was finished In my remarks on that day I pointed out that we had many countries in Africa friendly to us who greatly needed our aid and to a far greater degree than did Ghana, and that we were practically ignoring these friendly countries.

I also criticized the folly of aiding Nkrumah and giving him additional prestige, noting that this could only strengthen him in maintaining an iron hand over the lives and freedom of his own people, as well as encourage other countries of Africa to take a similar course of enmity toward the West.

In addition, I observed that construction of the Volta Dam, where power was to be used to produce aluminum in great quantities, could only injure the West. There is a world surplus of aluminum and American manufacturers who employ American workers of necessity have had to curtail their operations. The stockpiles of aluminum in the United States and the rest of the free world are great. Only the naive would doubt that the aluminum produced by the power from this dam, regardless of who technically owned the factories, could only contribute to the world Communist economic strength and potential, especially in the field of domination of the world aluminum market.

Mr. Speaker, our Embassy in Accra, the capital of Ghana, has been picketed and attacked by mobs incited and egged on by their Government. They hauled down the American flag and threatened to storm the Embassy itself. The Embassy was not damaged and there were no injuries to American personnel. However, the Ghanaian police merely looked on as the American flag was lowered; a courageous young Negro Embassy official, Emerson Player, fought his way through the mob and ran the flag back up.

Before the demonstration began, trucks with loudspeakers circulated through Accra blaring that "American imperialists have sent money into Ghana to start rumors and trouble." During the riots, one of the leaders, the editor of the Government-controlled Ghanaian Times, shouted outside the Embassy that—

> We are fed up with your imperialist American dollars. We will massacre you. You killed President Kennedy. American imperialism is a filthy civilization.

Under Kwame Nkrumah, Ghana's President, freedom has all but disappeared in that country. The newspapers have long been filled with attacks on the United States and praise for Russia. Nkrumah openly boasted on a U.S. television program a few years ago that his political philosophy was Marxist-Socialist. He was the principal African leader against the United States at the Belgrade conference and has not attempted to conceal his hostility and hatred toward the West. Just a few days ago, in a nationwide radio speech following the announcement that he had won 99 percent approval in a referendum to make Ghana a one-party state, Nkrumah denounced malicious rumors "fomented by evil men and neocolonialist agents among us." He did not specify what he meant, but another Government-controlled paper, the Ghanian Evening News, in an anti-American editorial, said:

> We suspect American imperialists and their clique of lackeys of originating and spreading certain wild, fantastic rumors concerning Nkrumah.

I want to again point out the prophetic remarks I made in July 1962:

> Briefly put, furnishing this money would follow a pattern which we in America are developing. In trying to make friends of our enemies, we make enemies of our friends. Such a philosophy has never succeeded in helping the country which followed it, but apparently we naively believe that such can be accomplished by helping the Communist leader Nkrumah.

And now we reap the fruits of this policy. The thanks we receive for the $170 million given to Ghana comes to us in the form of Government-inspired and Government-led insults, attacks upon our Embassy, desecration of our flag, threats of massacre, and slanderous accusations of having murdered our own President.

BARRY ASKED FOR IT: HERE IT IS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, in my State of Arizona we have one of America's outstanding editors, a student of history and a real authority on world affairs. Through the years he has kept all of us in the Arizona delegation on our toes. He praises us when we have taken a stand he believes is right for the country, and he upbraids us when he thinks we are wrong. The result is a high level of public discussion and public awareness of important national and international issues among his readers.

The editor of whom I speak is Mr. William R. Mathews, of the Arizona Daily Star in Tucson. My purpose in speaking of him today is that he has just published what I regard as a penetrating and revealing analysis of the foreign policy statements of one member of our Arizona delegation, a figure of some importance on the national scene these days, Senator BARRY GOLDWATER. Since

Mr. Mathews has often praised Senator GOLDWATER when he thought he was right, and otherwise maintained an objective attitude toward the Senator's activities, I find this analysis particularly significant and important as an indication of informed opinion in the Senator's home State.

On January 17 of this year, Senator GOLDWATER published a statement of his foreign policy views in Life magazine. Mr. Mathews studied and restudied this statement and published his analysis in an editorial appearing in the Arizona Daily Star last Sunday, February 2.

Mr. Speaker, I simply want to underline this fact: It is the judgment of Mr. Mathews that Senator GOLDWATER is unconsciously advocating war as a solution to our problems in the world. Mr. Mathews writes:

Senator GOLDWATER is no doubt sincere in what he offers, but what he writes reveals that he needs to read up on history. He proposes something that has never in all history succeeded. He cannot help confusing his friends when in one breath he pleads for peaceful measures to "reduce" Communist power and then concludes, "The hope that freedom and communism can live peacefully side by side is a vain one."

The people of the country are entitled to something better than this from a potential candidate for President.

These are strong words coming from one of America's distinguished editors and experts on foreign affairs. I commend the editorial to the attention of all my colleagues, Republican as well as Democrat. I include the editorial at this point in the RECORD:

BARRY ASKED FOR IT; HERE IT IS

(By William R. Mathews)

Senator BARRY GOLDWATER wrote me on January 17, enclosing a tearsheet which he prepared for publication in the January 17 issue of Life magazine. He said that he would value my comments on it.

I have read and reread the article several times, as a means of studying what he says, and the implications of what he writes. Elsewhere on this page is published a summary of this article with salient extracts to indicate the Senator's thinking.

He states his basic policy as follows:

"In present-day terms the major objectives of the United States foreign policy should be the reduction of Communist power to a level from which it cannot threaten the security of our Nation or the peace of the world. This will require all mobilization of the free world's resolve and its resources to undermine the power now held by Communists and to encourage their eviction from positions of control."

"This does not mean war. It means the alternative to war, a way to win peace—to end threats to the Nation—without war."

BARRY builds his policy on the base of expanding a strong NATO into the economic and political fields. He thereby expects to forge a free world boycott of all Communist countries, and as he remarks, this would be a "win" policy to reduce rather than destroy the Communist threat.

He emphasizes this policy as follows:

"Economic warfare against problem-ridden Communist countries waged from a base of Atlantic purpose would be one means of undermining Communist power without shooting warfare."

He calls for better and more effective psychological warfare and more foresight in the use of our own political power.

One has only to take note of recent events to see how Senator Goldwater's policy of "reducing" Communist power by a free world economic boycott is already outdated. All of our allies are doing a growing business with Communist countries. France has recognized Red China, Britain is doing business with Cuba, Spain is planning to sell Cuba some fishing boats. Canada sells wheat to Red China and considerable amounts of general merchandise to Cuba.

Historically, no peaceful boycott or blockade has ever been victorious. It took four years of an armed, rigidly enforced, blockade by the Union navy, plus the overwhelming manpower of the Union armies in our Civil War, to defeat the South. Despite the British and American blockades of Germany, in two World Wars, in each instance we had to land our own armies on the continent of Europe to defeat the Germans.

The Senator overlooks how the recovery of Europe has made its nations more and more independent. They express it in current negotiations going on over reduction of tariffs. Their increasing commerce with the Communist nations testifies to that situation. They do not fear the Soviet Union the way we do. They are more accustomed to living in danger than we are.

The Senator blandly assumes that our NATO allies, and other countries of the free world, will join us in a boycott that would be a spectacular failure.

When he says that coexistence has failed, he closes his mind to the fact that since the formation of NATO, the only places where communism has made progress are Cuba, Indochina, and Zanzibar. We are living in a relatively peaceful world as a result. NATO has been a success and it can continue to be a success as our European allies become stronger and stronger.

BARRY overlooks the fact that communism is a new universal belief that has grown and expanded since 1917. Because it promises a material utopia, it appeals to the ignorant and many idealists everywhere. Because it champions a dictatorship as a means of government, it appeals to many political leaders in Latin America and Africa. BARRY needs to read his history.

Although the Soviet Union might be destroyed, communism no more would be destroyed than Christianity and Judaism were by the destruction of Jerusalem in 92 A.D. by the Romans. A new universal belief like communism will have its ups and downs, its peaceful periods and its periods of conflict, just as Christianity and Mohammedanism have had.

After using more than 3,000 words to explain how this new "win" policy would be successful in reducing Communist power by peaceful methods, Barry uses his final paragraphs to contradict himself. He writes:

"The hope that freedom and communism can live peacefully together side by side is a vain hope. * * * The Communists will not—and cannot—live at peace hog-tied as they are by their own militant ideology. Thus merely to echo the Communist slogan of peaceful coexistence is simply to fall in with Communist propaganda. Most certainly, to accept the division of the world between free and slave does not measure up to worthy and sensible purpose in foreign policy."

Those words mean war, and so does his last paragraph:

"Ending Communist power to distort human life and disrupt world peace is the vision of victory that has the power to inspire and the inspiration to win. It is the victory that would snuff the fuse of war and agression, liberate peoples and assure fulfillment of reasonable hopes everywhere."

Senator GOLDWATER is no doubt sincere in what he offers, but what he writes reveals that he needs to read up on history. He proposes something that has never in all history succeeded. He cannot help confusing his friends when in one breath he pleads for peaceful measures to reduce Communist power and then concludes, "The hope that freedom and communism can live peacefully side by side is a vain one."

The people of the country are entitled to something better than this from a potential candidate for President.

THE WATER RUSH IN RUSSIA

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, one of the most capable men in the Government right now is the Honorable Floyd E. Dominy, Commissioner of the Bureau of Reclamation. Commissioner Dominy has set a consistently high standard of public service under the past two administrations, and I am grateful that we have a man of his caliber in this position because of the absolutely vital importance of reclamation to the development of the whole Western United States.

In the current issue of the magazine Reclamation Era, Commissioner Dominy has written a very interesting and worthwhile report on his recent trip to Russia which I am including in my remarks at this time for the attention of my colleagues:

THE WATER RUSH IN RUSSIA

(By Reclamation Commissioner Floyd E. Dominy)

Soviet leaders make no secret of their plans to overtake the United States, indeed as Khrushchev has said "to bury you," in the utilization of their natural resources as in all other production.

In support of their ambitions, U.S.S.R. irrigation officials aim to develop 2.5 million acres of new irrigation lands each year for the next 20 years. This goal seemed incredible to us as specialists of reclamation in the United States, until we had the opportunity to assess the actual development and potential of Russia's land and water resources.

On the 3-week cultural exchange tour made last September, I headed a group of top U.S. irrigation engineers and leaders who inspected existing and potential irrigation developments in the U.S.S.R. Members of the U.S. delegation from the Department of the Interior were Deputy Assistant Secretary of the Interior Robert W. Nelson and Bureau of Reclamation members, Gilbert G. Stam, Chief of the Division of Irrigation and Land Use, Washington, D.C.; Hollis Sanford, Chief of the Division of Irrigation Operations; and Frank E. Rippon, Chief of the Canals Branch, both of the Office of Chief Engineer, Denver, Colo.

Other U.S. delegates were Ned Greenwood, of the Soil Conservation Service; M. C. Bryant, rancher and businessman from San Angelo, Tex.; Floyd E. Bonge, vice president of the Eastern Municipal District, Hemet, Calif.; Dr. J. B. Fuller, member of the Federal Farm Credit Board and longtime chairman of the board of commissioners of the Goshen Irrigation District, North Platte project, Nebraska; and LeSalle E. Coles, past president of the National Reclamation Association, Prineville, Oreg.

Local Soviet officials repeatedly made reference to the importance of irrigation in meeting the food and fiber needs not only of the U.S.S.R. but also of the underdeveloped nations of the world. It is plain that these leaders are looking to the dependability of

irrigation in their homeland to strengthen their bid for world supremacy. Consequently, Soviet officials are moving rapidly, though somewhat awkwardly, to develop their country's vast potential in water and land resources.

VISITED TWO IMPORTANT AREAS

Escorting the American delegation wherever we requested, cordial Soviet hosts arranged for the Americanskys, as we are called in that country, to become acquainted with two important irrigation areas, Ceneral Asia and Transcaucasia..

In Central Asia, the Republic of Uzbek, which has a most picturesque land and culture, is one of the greatest producers and is a major contributor to the Soviet Union's Central Asian breadbasket. A primitive Uzbek people was captured by the Russian czars in 1859. Even with modern technology utilizing their rich native soil, these primarily Asiatic people called Uzbekians still live a relatively primitive and genuinely friendly existence. The adjacent Republics of Tadzhik and Kirgiz are similarly impressive.

People in the Republics of Azerbaidzhan, Georgia, and Armenia in the Transcaucasian area live in a more advanced technology and European influence in contrast to those of the Central Asian Republics.

Located along the 40th parallel, which in the United States is the border dividing Nebraska and Kansas and cuts through the northern parts of Colorado, Utah, Nevada, and California, these high water-yielding areas include millions of acres of fertile land suitable for irrigation.

Many thousands of acres of the primary crop of cotton can be seen from roadside. A few single-row cottonpicking machines were observed in equipment yards, but nearly all of the irrigated cottonfields are harvested by the armies of hand pickers. In contrast, nearly all of the irrigated cotton in the United States is picked mechanically.

Alfalfa and corn production is spotty, but they are used to some extent in rotation with cotton. Grapes are grown in great variety and quantity. Other important specialty crops include melons, figs, peaches, pears, apples, and nuts. Production of silk is important in some parts.

SHEEP GRAZING HEAVY

Central Asia grazes millions of sheep, primarily the fat-tailed variety, and comparatively few cattle. In Transcaucasia, the relative importance of cattle was greater. Most cattle are the dairy or dual-purpose type, with quality only fair. Development plans call for irrigation of several hundred thousand acres of mountain valley grazing land in Transcaucasia, which will improve the distribution of stockwater and increase production of milk, meat, and wool.

An infestation of noxious weeds including Canada thistle prevails in overabundance and remedial action is not evident.

Each Republic has its own well-financed design institute and hydraulics laboratory to exercise major influence over the formulation of new project plans and construction. Operations at the institutes include work in irrigation, drainage, hydraulics, soils, economics, soil and water relationships, hydraulic structures, soil mechanics, sprinkler irrigation, and machine testing. The Georgian S.S.R. hydraulics laboratory alone has an annual budget of $750,000.

Seepage from canals is a severe problem in some areas and local officials have not yet determined upon the best method of treatment. In one case the loss was estimated to be 17 percent in a 36-mile reach, a loss similar to that of many unlined canals in Western United States.

Many miles of precast concrete flumes are being installed to distribute irrigation water to irrigable lands.

Because of expansion and contraction, the joints in concrete flumes open up and leak to some extent. This results in settlement of the flume supports, misalinement, and other maintenance problems. A new type of mastic for sealing the flume joints is being developed and used in some lines. The new mastic is presumably an adhesive type of plastic material with considerable elasticity.

Some good-quality asbestos cement pipe is manufactured in the Soviet Union and is being used to a limited extent in the irrigation systems. However, virtually no concrete pipe is manufactured or used for this purpose.

In the Hungary Steppe generally the lands are afflicted by severe salt problems. The reclamation process includes construction of main drains, lateral drains, and numerous temporary open drains to permit rapid leaching of the soils. Land containing 8-percent salt must be reduced to 2 percent before crops are planted. Some of these lands are planted to rice for 3 to 4 years. After the salt problem is sufficiently corrected, cotton is planted.

After initial reclamation, the temporary drains are eliminated and many of the permanent drainage laterals are lined in tile. A machine developed in the U.S.S.R. is reported capable of laying drainage tile up to 10½-foot depths.

A large plant operation serving the Hungary Steppe development makes precast reinforced-concrete flume sections in four sizes with depths of 16, 24, 32, and 40 inches.

In Azerbaidzhan, which currently irrigates 3 million acres of land, the 60-foot-high Pirsagat Dam is being constructed of an expansive clay to provide supplemental irrigation water to an area principally devoted to feed crops and livestock. Their method of dam construction is not being used in the United States. When taken from the pits, the clay is 16 to 18 percent moisture by weight. After the clay is placed on the dam by truck and spread by tractor-dozer, water is added to raise the moisture content to 27 percent. No mechanical compaction is used except that which is incidental to movement of trucks and tractors over the surface as the layers are applied.

A large amount of irrigable land is irrigated by sprinkler systems. The sprinkler heads are of different design, but similar in principle to those in the United States.

The Republic of Armenia has some irrigation works in and near its capital city of Yerevan which are reported to be 2,000 years old. Extending from Lake Sevan to Yerevan is the costly Sevan-Razdan power and irrigation system now irrigating 32,000 acres of land. When completed it will irrigate 74,000 acres. The system includes 178 flumes (78 are finished and in operation), 70 steel siphons, and 13 bridges. The route of the canal contains eight power sites, six of which have been developed. All are operated from a central control panel in Yerevan and are interconnected with the Transcaucasion power system. Two of these plants are constructed underground.

A portion of the shoreline of Lake Sevan is equipped experimentally with automatic devices for applying fatty alcohols (principally hexadecanol) to the lake surface to reduce surface evaporation.

SOME COMPARISONS

Similar research is being conducted in the United States by or in cooperation with the Bureau of Reclamation, the chief difference being that we have concentrated on the use of a powdered form of compound, while the U.S.S.R. is using a liquid. Laboratory officials supplied the tour group with a sample of the Soviet's liquid compound. They reported experiments to date reveal that evaporation from Lake Sevan can be reduced 20 to 25 percent.

To reclamationists from the United States who inspected the water resource facilities and developments in the Soviet Union, it is evident that the differences in the programs of the two countries are like the differences in the philosophies of the two. America's development is dependent primarily upon individual initiative and free enterprise, and the Soviet's upon decisions and orders from the committee and the followers of Lenin.

In spite of gigantic efforts to increase production, improve housing, and generally raise standards of living, years will be required for Russia to develop, manufacture, and build the plants, products, and structures necessary to equal the present-day accomplishments of the United States.

Although it is not known what proportion of the national budget is used for development of her rich natural resources compared to the share devoted to the buildup of military might and exploration of space, it is evident that the Soviets neither waste time nor withhold rubles from their reclamation effort.

Whatever the outcome of the Soviet move, it will behoove us to spare no effort, under our own system of private enterprise and cooperation, to maintain and foster a positive resource development program. It is a keystone in our national economy.

WINNING THE COLD WAR: THE USIA'S ROLE IN THE U.S. IDEOLOGICAL OFFENSIVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, for over a year, as chairman of the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs, I have directed our subcommittee's investigation of the U.S. ideological effort in the cold war. I would like to take a few minutes today to comment on the purpose, the scope and the progress of our undertaking, and to highlight the role which the USIA plays in the cold war struggle for the minds of men.

Let me begin by stating some of the reasons why our subcommittee has undertaken this investigation.

It seems that the struggle between the world Communist movement, spearheaded by the Soviet Union, and those who oppose it—armored, sustained, and led by the United States—will continue to dominate international politics in the foreseeable future;

Second, the alleged existence of the "balance of terror" on the military plane has resulted in an intensive, global confrontation in the economic and political sphere. The cold war is being waged today in large part with economic weapons—trade and aid—and with ideas.

Coming increasingly to the fore as the decisive theater of competition in the cold war is the third dimension of our foreign policy: The psychological and ideological.

Our subcommittee study is concerned solely with this third dimension of U.S. foreign policy—the worldwide competition with communism in information, education, and ideology. We are interested in its governmental aspects, as well

as in those private activities which bear upon it.

On the governmental side, it has been estimated that Federal programs operating on this plane in support of our foreign policy involve expenditures of over several hundred million dollars annually. My subcommittee is attempting to inventory these programs; to determine how effectively they are managed and coordinated; to ascertain their impact abroad; and to find out how this impact can be improved.

Simultaneously, we are attempting to ascertain whether—and how—some of the oversea undertakings of private American citizens and organizations can be dovetailed with parallel governmental programs to provide increased support for our foreign policy.

This is the first time, in my knowledge, that a congressional committee has undertaken a comprehensive study of the total range of U.S. ideological efforts in the cold war. During the past year, testimony presented to our subcommittee has filled five volumes of printed hearings. Volume VI, containing the transcript of executive hearings on the coordination of the U.S. ideological offensive at the highest governmental level, will be released shortly. We plan to follow the release of that volume with an interim report dealing with some specific issues of ideological conflict management.

This, in brief, is the purpose, the scope and the current status of our investigation.

THE ROLE OF THE USIA

At this point, I want to comment on the role which the U.S. Information Agency plays in the U.S. ideological offensive—and call to the attention of the House, a report on this subject issued earlier this week by the U.S. Advisory Commission on Information.

My subcommittee opened its investigation last year by receiving testimony from Edward R. Murrow, the then Director of USIA, and from J. Leonard Reinsch, Chairman of the U.S. Advisory Commission on Information. The primary purpose of those hearings was to clear away some misconceptions about the functions and the responsibilities of the USIA. We set out to define the mission assigned to the Agency and to inquire into the matter in which this mission was being accomplished. At the same time, we showed that USIA is not responsible—by a long shot—for the total U.S. governmental effort in this field.

The printed record of our hearings—volume II and the forthcoming volume VI—contains ample information on this subject. It shows that the general objectives of USIA, embodied in the U.S. Information and Educational Exchange Act of 1948—Public Law 402, 80th Congress, 2d session—are "to promote a better understanding between the people of the United States and the people of other countries." More specifically, the act charges the U.S. information program with the responsibility for "disseminating abroad information about the United States, its people and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs."

In January 1963 this primary mission of the USIA was expanded by former President Kennedy. In a memorandum of January 25, 1963, to the Director of USIA, the President charged the Agency with "advising the President, his representatives abroad, and the various departments and agencies of the implications of foreign opinion for present and contemplated U.S. policies, programs, and official statements."

The USIA, then, currently has a dual mission: To help influence public attitudes in other nations, and to provide advice to the executive branch of the U.S. Government on the implications of foreign opinion for present and contemplated U.S. programs, policies, and statements.

The USIA is not alone in discharging these missions. In both instances, other Government departments and agencies—from the Atomic Energy Commission to the Veterans' Administration—contribute some effort. Their programs and activities which comprise the U.S. ideological offensive in the cold war are outlined briefly in a study released last month by my subcommittee and entitled "The U.S. Ideological Effort: Government Agencies and Programs."

USIA'S PERFORMANCE

How has the USIA performed its mission?

The answer to this question falls into two parts. On the one hand, following suggestions made by our subcommittee and by other sources, USIA has made considerable progress during recent times in strengthening and improving its operations. The quality of some of its products has improved. The scope of its operations has been extended in certain critical oversea areas. New techniques of international communications have been adopted. More effective relationships have been established with other Government departments—both with respect to policy formulation and to its execution. Basic research has been stepped up.

All of these improvements have strengthened USIA's activities directed at informing foreign audiences about U.S. policies and objectives, and thereby developing respect for, and confidence in, U.S. leadership of the free world. Some evidence that USIA is making progress in this role can be found in the Soviet Union's reaction to the work of the agency. In 1963, Soviet propaganda attacks on USIA reached an alltime high. This may be a sign that the Soviets are very much concerned about the growing skill and effectiveness of USIA's efforts.

There is, however, another side to this report. In many of its activities, the USIA continues deficient. And this brings me to the 19th Report of the U.S. Advisory Commission on Information which I mentioned earlier: the report pinpoints specific areas in which the Agency must strive to solve continuing problems.

I want to digress for a moment to say a word about the Advisory Commission.

The Advisory Commission operates pursuant to Public Law 402, 80th Congress. It consists of five private citizens appointed by the President and confirmed by the Senate for 3-year overlapping terms. Its members—currently J. Leonard Reinsch, Chairman; Sigurd S. Larmon, Clark R. Mollenhoff, M. S. Novik, and John L. Seigenthaler—represent the public interest.

The purposes of the Advisory Commission are to "formulate and recommend" to the Director of the USIA "policies and programs for the carrying out of" Public Law 402, to conduct appraisals of the effectiveness of the information, education and cultural programs administered by the Agency, and to submit a report to Congress covering these policies and programs.

In its 19th annual report, submitted to the Congress earlier this week, the Advisory Commission recommended that USIA seek solutions to its continuing problems. These were defined by the Commission to include the need—

First. To improve internal management, communication and coordination.

Second. To reduce the number of publications.

Third. To seek outside evaluation of USIA print and radio programs.

Fourth. To reduce the number of USIA buildings in Washington from 11 to 1.

Fifth. To improve and strengthen long-range planning.

Sixth. To expand the research program and to use its results more effectively.

Seventh. To obtain legislation for a career Foreign Service Corps.

Eighth. To coordinate and concentrate the Government's programs for orienting and training foreign specialists in mass communications.

Ninth. To review and study the role of the cultural affairs officer.

Tenth. To restore the balance of the Agency's cultural programs.

Eleventh. To reconsider the USIA decision to reduce the number of libraries or information centers in Western Europe.

Twelfth. To assume full responsibility for planning and executing the President's trade fair exhibition program.

Thirteenth. To consider the need to consolidate into one agency of government the related but widely scattered programs in information, education, and culture.

Fourteenth. To seek the advice and guidance of local Latin American practitioners of mass communications in presenting the Alliance for Progress to Latin America.

Fifteenth. To confine USIA's domestic public relations to a minimum and limit the distribution of its media products in the United States in accordance with the intent of Congress.

On the basis of testimony submitted thus far to our subcommittee, I concur with most of the recommendations of the Advisory Commission. I believe that the Commission has done a thorough, conscientious job and deserves to be warmly commended for it.

NEED FOR CONGRESSIONAL SUPPORT FOR USIA

There is one more thing I would like to mention. In its report, the Advisory Commission has drawn attention to the "seeming lack of rapport between the Agency and some congressional leaders." In the Advisory Commission's view, "a fuller understanding and support of the function of USIA is needed in the Congress" if the Agency is to fulfill its mission and realize its full potential as an important adjunct of our foreign policy.

I believe that there is merit to the Advisory Commission's finding in this instance. In the Commission's words:

> Today, in a phase of cold war which has been characterized by an apparent relaxation of tension between the Soviets and the United States, USIA represents an investment in preventing hot war and in helping to create an atmosphere and conditions for the establishment of peace. In an era of military coexistence and at a time of fierce ideological struggle, its value is obvious.

I sincerely urge the Members of the Congress to read the full text of the Advisory Commission's report. It is worth the effort.

A TRIBUTE TO THE FEDERAL CIVIL SERVICE EMPLOYEE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker the Government worker should be admired.

Regrettably, however, in most of society, either ancient or modern, he seems to be neither popular or admired. On the contrary, the Government worker has, all too often, been looked down upon and spoken of in disparaging terms as being some sort of parasite on the back or in the hair of the body politic. He has often been characterized as being not very able, not very ambitious or industrious—or, obviously, he would not be a Government worker—and sometimes not very honest. This misconceived stereotype of the Government worker does a gross injustice to the vast army of able and devoted men and women who today make up the Federal civil service.

Although there may be, at any given time, just enough people on the Government payrolls who conform to the old stereotype to keep alive this ancient misconception of the nature of the public service, repeated publicizing of this concept is most unfair and unfortunate. On the basis of my own experience, which extends over a period of a good many years as a practicing attorney and as the elected representative of the people of my district, my personal contacts with the civil service have been both numerous and extensive.

I want to take this opportunity of stating publicly my thought that these men and women constitute an unusually able, conscientious and devoted group. They are hardworking, and for the most part, uncomplaining. They have more or less formally dedicated their lives to the public service. Most of them entered this service because they wanted to serve their country and its Government. They are deeply committed to the goals and purposes of the public servant.

There are daily, in the lives of all of us, many evidences of the competence and devotion of the members of this important group of public servants. Alongside and often in cooperation with the employees of the State and local governments, they protect our lives and property, protect our health and welfare, educate our children. They deliver our mail, and when some emergency arises, they act promptly, in their respective areas, to take whatever action the situation may require.

I am much impressed with the scope and quality of the work of this devoted group of public servants and I am pleased that at this time each year, a series of dinners are held here in the Nation's Capitol to recognize the important contributions made by individual Federal employees. The practice of giving public recognition for conspicuous achievement is something relatively new and recent, but I like it. Recognition is given by the Stockberger Award, the Jump Award, the Flemming Award, the Rockefeller Fund Awards and the awards for outstanding women workers—to mention only a few.

An examination of the life stories of the recipients of these awards, and of the contributions that they have made is, indeed, impressive. Here are found, in the work of these men and women, the stories of significant contributions not only for the benefit of all Americans but very often for the benefit of all mankind.

But it is only a few of the more outstanding employees in the Federal Service who can be so recognized. For every one who is, there are dozens, scores, hundreds, perhaps even thousands more who inconspicuously, day by day, perform their assigned tasks competently, efficiently, and with the high standards of integrity that characterize the Federal Civil Service.

It is a pleasure to salute them, and to commend the tremendous contribution which they make to the progress and well-being of our Nation.

U.S. SHOULD FIRE CUBAN EMPLOYEES AT GITMO

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, while France, England, Sweden, Spain and other "friends" and "allies" of the United States ready all sorts of economic aid for Castro, the Cuban dictator himself has decided to create more mischief in the Caribbean.

Perhaps to take advantage of the difficult Panama problem, or for other reasons, Castro decided to willfully test U.S. resolve by sending four fishing boats into Florida territorial waters contrary to the law. If we had been looking the other way, as we have too often done in the past, he would have become even more bold the next time. However, the Coast Guard and State Department determined this time to board the trawlers, and caught them in the act of fishing in Florida waters.

Castro, reacting to our legal detention of the fishing boats and crew, cut off the water supply to our naval base in Cuba. Fortunately this event has been long expected, and water will be carried to the base from Port Everglades, Fla. This port has been equipped for this job for some time, and is ready for action now that it is needed. The people of Fort Lauderdale and Hollywood, home of the port, will cooperate fully with the Navy.

For years the United States has employed Cuban workers at the naval base. Even during the ill-fated invasion attempt, and later missile crisis, these employees continued to enter and leave the base daily.

These employees are paid in American dollars, which, of course, ends up in Castro's hands.

There is no further need for hiring Cubans to work on the base. With unemployment so high in the United States, it would be worth the extra cost to recruit American citizens in this country for the jobs to be done, and take them to the base.

This of course is not just suggested as a countermove because of the water cutoff. There are serious security problems with the Cuban nationals now working on the base which should be eliminated. We should also completely halt the flow of U.S. dollars to Castro via these workers.

Castro has now taken two steps against the United States. He has sent his fishing fleet into our waters illegally, and has cut off the water to our base. Perhaps those who still believe we can live with Castro in the Caribbean will realize that it is impossible. Perhaps, also, our "allies" will better understand the need for a complete economic blockade of Cuba, or even more stringent measures.

As to the trawlers themselves and their crew, they were caught violating the territorial waters of the United States, in violation of the law. They have been turned over to the State of Florida for legal action against them, and nothing should interfere with the due process of law.

GOV. NELSON ROCKEFELLER ISSUES THOUGHTFUL AND THOUGHT-PROVOKING WHITE PAPER ON VIETNAM

Mr. SCHWENGEL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SCHWENGEL. Mr. Speaker, many American families are deeply concerned about the deteriorating situation in Vietnam. Judging by the mail and

comments I am receiving from the people of the First District of Iowa, there is increasing disquiet about the lack of constructive national administration policies in this area. Because of the importance of Vietnam to the defense of free countries in Asia, Gov. Nelson Rockefeller of New York has prepared a white paper on the subject. It covers:

First. The neutralization of Laos.

Second. How the war in Vietnam is going: the process of "news management."

Third. The withdrawal of U.S. troops from South Vietnam.

Fourth. Understanding the nature of guerrilla war.

Fifth. The future of Cambodia and the rest of southeast Asia.

Because I believe very deeply that in order to save freedom in Asia, the United States must take intelligent, positive actions. I think Governor Rockefeller's white paper on Vietnam raises many important questions which all of us should be thinking about. It also provides useful guideposts in building a better foreign policy position for the people of the United States. It is another example of a leading Republican voice speaking out on foreign policy problems of our Nation and offering good proposals for tackling them.

STATEMENT BY GOVERNOR ROCKEFELLER AT A PRESS CONFERENCE IN LOS ANGELES, CALIF., WEDNESDAY, JANUARY 29, 1964

I am deeply troubled, as are many Americans, by the statement of Secretary McNamara 2 days ago on the serious deterioration of the situation in South Vietnam, and then his apparently contradictory statement yesterday that there has been a very noticeable improvement recently.

The problem is one that not only affects Vietnam, but involves all southeast Asia. And in this area, the Democratic administration in Washington has pursued policies toward Laos, Cambodia and Vietnam utterly at variance with each other, despite the fact that the fate of these countries has been historically and geographically linked.

Ever since the present administration came to power in 1961, there have been conflicting statements about southeast Asia—statements which have raised hopes one day only to dash them the next.

It is time for the administration to give the American people a full accounting of the situation in Vietnam and southeast Asia.

Specifically, the administration should address itself to the following questions:

1. What are the actual facts on the war in South Vietnam?

2. What American military commitment is necessary to win the war?

3. Does the United States still intend to withdraw all its military forces from Vietnam by the end of 1965?

4. If the war was not going well, why were 1,000 American troops withdrawn in December 1963?

5. If the war in Vietnam has not been going well, how does the administration explain the optimistic statements extending well over 2 years?

6. Will the United States take any action to counteract the Communist violations of the international neutralization agreement for Laos?

7. In view of the history of Laos since its neutralization, would the United States be justified in participating in the international neutralization of Cambodia with the same countries that are violating the previous agreement?

8. How does the administration propose to reconcile the neutralization of Laos and the imminent neutralization of Cambodia with the effort to defeat the Communists in Vietnam?

9. How should we interpret Attorney General Robert Kennedy's statement in connection with his negotiations regarding Malaysia to the effect that Indonesian aggression was a problem for Asians to settle? Does this foreshadow additional abandonment of friends or neutralization in southeast Asia? What would our American reaction be if Great Britain, which has a defensive alliance with Malaysia, took the same attitude toward our military effort in Vietnam?

To give perspective to these questions, I want to specify my own concerns in greater detail, drawing as much as possible on the administration's own statement on Vietnam and southeast Asia.

I. THE NEUTRALIZATION OF LAOS

In 1961 when the Democratic administration took office, the United States was backing a pro-Western government in Laos. The Communist Pathet Lao controlled only one-fifth of the area. On March 23, 1961, in the face of a Communist advance, the President announced that the "safety (of Laos) runs with the safety of us all." U.S. troops moved into the Gulf of Siam.

When the Communists continued their advance, despite our show of strength, the administration came up with a scheme for the neutralization of Laos. It abandoned our support for the pro-Western Government of Phoumi Nosavan and insisted on a coalition government in which the Communists play an increasingly powerful part. Since the so-called neutralization the Communists have constantly expanded the area they control. Today the Communist Pathet Lao control over half of Laos, including the entire area contiguous to the Vietnamese border, extending over 260 miles, thus opening up a new supply line and a sanctuary for the Communist guerrillas in Vietnam.

In December 1961, while Laos was being neutralized, the United States formally committed itself to a major effort to defeat the Vietcong guerrillas. Over 10,000 military personnel were sent to Vietnam as instructors. Military assistance was stepped up. It was announced that Vietnam was different from Laos.

The "neutralization" of Laos was inconsistent with our Vietnam policy on two counts: psychologically, it spurred on the Vietcong (Communist guerrillas) and demoralized our friends. It set the precedent that we were capable of sacrificing a government we had been instrumental in establishing. It thus must have created the hope in some, and the fear in others, that if the war in Vietnam was sufficiently prolonged, we would tire of it as we had in Laos.

Militarily, the so-called "neutralization" of Laos opened up the entire frontier between Laos and Vietnam to guerrilla infiltration and enabled the Communists to establish sanctuaries in Laos, and new supply lines into Vietnam.

These supply lines have strengthened the Vietcong in their unending war of harassment.

II. HOW THE WAR IN VIETNAM IS GOING: THE PROCESS OF "NEWS MANAGEMENT"

Secretary McNamara now tells us that the war in Vietnam is going badly. Until recently the administration has apparently made every effort to hide this fact from the American people. Thus:

On July 24, 1962, Secretary of Defense McNamara said that the South Vietnamese were "beginning to hit the Vietcong insurgents where it hurts most—in winning the people to the side of the government."

On April 5, 1963, General Taylor testified that "in the bitter struggle in the Republic of Vietnam, 1962 was the critical year. For the first time in 15 years the people of Vietnam with our military assistance started winning instead of losing the fight to protect their freedom."

On April 12, 1963, Secretary of State Rusk said that "an important corner has been turned" in the war in Vietnam.

On September 25, 1963, Assistant Secretary of Defense Sylvester said that military events in Vietnam were "getting better and better" and that reports showed that the government was "rapidly approaching" militarily the point where the "goals set will be reached relatively shortly."

On October 2, 1963, a White House announcement stated that the war was going so well that 1,000 U.S. military personnel could be withdrawn before the end of this year and most of the remainder before the end of 1965.

On October 31, 1963, the day before the overthrow of the Diem regime, General Harkins, the commander of our forces in Vietnam, said that victory, in the sense that it applied to this kind of war, was only months away.

In other words, even before the overthrow of the Diem regime, the administration consistently maintained that we were winning the war in Vietnam. After the overthrow, these claims continued, if anything more strongly, because the new government was supposed to be more determined. Thus:

On November 20, 1963, high administration officials meeting in Hawaii reported that the war had taken a decided turn for the better and reaffirmed the withdrawal of 1,000 American troops by January 1.

On November 25, 1963, President Johnson was reported to have reaffirmed the policy for Vietnam, including the October 2 statement on the withdrawal of 1,000 troops before the end of 1963.

On December 3, 1963, the first of 1,000 U.S. servicemen were withdrawn from Vietnam.

Suddenly, after 2 years of extraordinary optimism over the military effort in Vietnam, after a coup d'etat which put in power a government described as significantly more capable of prosecuting the war, it appears that the war is going badly. The American people have now been getting reports that, in fact, all is not well in Vietnam:

The month following the coup d'etat on November 1 was the most disastrous of the year for the Vietnamese forces. Government casualties and losses ran higher than in any other month. The Vietcong staged about 3,100 military and sabotage and propaganda actions, a record total since the resumption of hostilities in 1958.

A high ranking officer from Washington has disclosed in Saigon that the situation in the Mekong Delta is, in fact, "rough—really rough."

Only 2 days ago, Secretary McNamara told the House Armed Services Committee that the South Vietnam war is going badly, that the situation is grave, and that the Communists have made considerable progress since the overthrow of Diem.

How are all these announcements to be reconciled? How can we withdraw troops when the war is going badly? What are the American people to believe? The cynicism of the "news management" of the administration is shown by a statement from an unnamed administration official quoted in the New York Times on October 14.

"I admit the press was sometimes lied to in Saigon in the past, but that does not mean that lying has continued and that official word can never be taken at face value."

The stakes in Vietnam are too crucial for such cynical treatment. The struggle to maintain the political and territorial integrity of the Republic of South Vietnam is of vital importance to the people of the United States and to free peoples everywhere. Our failure to defeat the Communist guerrilla

movement in Vietnam can lead to the extension of communism throughout all of southeast Asia. Such failure in Vietnam could convince all surrounding countries, and many others elsewhere, that Communists, indeed, are the wave of the future. It could, as well, convince our most trusted allies that our leadership is ineffective—that we have neither the power nor the will to back up our word. All Americans have a special concern with the struggle in Vietnam because the lives of 15,000 American boys are involved daily in that country and 166 Americans have already died there. The American people are willing to make sacrifices necessary to defeat Communist aggression. But they are entitled to be told the truth.

III. THE WITHDRAWAL OF U.S. TROOPS FROM SOUTH VIETNAM

The same confusion exists in regard to our policy on the withdrawal of American troops. Thus:

On October 2 the White House announced that 1,000 U.S. military personnel would be withdrawn before the end of 1963 and most of the remainder before the end of 1965.

On November 14, the White House reduced the figure of 1,000 troops for immediate withdrawal to "several hundred."

On November 15, General Timmes, Chief of the U.S. Advisory Mission in Vietnam, spoke again of a plan to withdraw 1,000.

On November 25 the policy statement of October 2 was reaffirmed by President Johnson.

On December 3, a troop withdrawal was begun and apparently 1,000 U.S. servicemen have been withdrawn from Vietnam, reducing the American contingent to 15,000 men.

On December 20, key U.S. officials were reported as regarding the 1965 target date as unrealistic.

On December 22, Secretary McNamara pointedly ignored a press question about the 1965 deadline.

American people have a right to know how we could announce a troop withdrawal when, in fact the war is going badly. They are distressed to see it reported in the New York Times of December 20 that several key U.S. officials have expressed the feeling that the 1965 target date for the removal of American troops had been established merely for domestic political reasons.

The American people are also forced to wonder what the effect of the withdrawal of 1,000 American forces had been and will be on the morale of the anti-Communist Vietnamese—at a time when visible evidence of American support must seem to be of utmost importance.

IV. UNDERSTANDING THE NATURE OF GUERRILLA WAR

In September and October of 1963, the administration suddenly began to criticize the Diem regime publicly. It was suggested that the Diem government could not effectively prosecute the war. For example:

On September 8, an administration official was quoted as saying: "We cannot go on supporting a dictatorial regime that is different from communism only in name and in its international connections."

This attitude seemed strangely inconsistent with the uninterrupted exaltation of Diem by Secretary McNamara, who, for example, spoke as follows before the House Subcommittee on Foreign Operations on May 15, 1963:

"It is a near miracle, it seems to me, that Diem, one man, could have written the constitution, organized a new government of that country, and in a period of less than 10 years, moved that country out of near feudalism into the modern world, more than trebled the educational system of the country, initiated an army, and brought some order to the country.

"Moreover, he has done this in the last few years under the severest form of subversive attack from the North Vietnamese and the Communists."

Nonetheless the new military junta was enthusiastically greeted with confidence that now the war effort would be stepped up.

But within little over 1 month many of the comments made about the Diem regime reappeared in connection with the new military junta. For example:

On December 8 an American military adviser in Vietnam was quoted as saying: "The great unanswered question is whether the new Government leaders are aware and are willing to accept the price it takes to win the war."

On December 14 U.S. officials in Saigon expressed concern to the press that the junta had failed to capitalize on its momentum from the coup, that there had been only minor reforms in the military effort, that there was a lack of a real effort to bring defectors into the Vietnamese Government. (After the coup d'etat, defections had apparently stopped completely, and then they had returned only to the same rate as had been present under Diem; new military appointments of the junta were said to have disrupted the field forces.)

On December 23 we were told that the military junta had not shown the sense of urgency that some Western observers believed was required. One Washington official expressed his views toward the junta in these words: "We should have expected delays, but we cannot tolerate them very much longer. We need momentum. If we sit back, the situation may be lost."

On January 27, 1964, Secretary McNamara now confirmed that the war was going poorly since the overthrow of the Diem regime.

Has the administration not understood that certain problems in Vietnam are inherent in the nature of guerrilla warfare? Could it be making the Vietnamese Government scapegoats for its own overoptimism?

All the criticism of the Diem regime and now of its successor may have obscured these basic facts:

The Vietcong guerrillas are trained and supported from outside the country. From such a privileged sanctuary, guerrilla action can be indefinitely maintained.

The guerrillas have a telling advantage over the Government forces in that they need fight only where they are superior, whereas the Government forces cannot be strong everywhere.

Many South Vietnamese, threatened by death by the guerrillas are compelled to offer them support, whatever their real sympathies may be.

The morale and efficiency of the existing administration is one of the chief targets of any guerrilla movement. Through assassination or blackmail they eliminate or drive many of the most competent civil servants from office.

Unfortunately, these facts cannot be removed merely by a change of government.

V. THE FUTURE OF CAMBODIA AND THE REST OF SOUTHEAST ASIA

Cambodia is a significant barometer of the estimate of Southeast Asian leaders about the probable trends in their area. The ruler of that small country, however temperamental by our standards, has seen his people through many troubles and kept communism from his territory. At a time when Washington's claims of imminent victory in Vietnam were succeeding each other with great rapidity, the ruler of Cambodia pointed out that the war was going badly. He said that he would do his best to spare his people the fate of Vietnam.

Within days of the coup against Diem, Prince Sihanouk first demanded the withdrawal of American personnel from Cambodia and the end of all economic, cultural, and military aid. On November 20, a request to this effect was formally made. Prince Sihanouk has also requested an international conference, similar to the conference which signed the neutralization of Laos at Geneva, in order to elaborate a similar status for his own country. The United States has agreed to such a conference.

The reasons for this state of affairs seem apparent. In 1962, the U.S. Government sacrificed a pro-Western government in Laos to a military junta. The Government of Cambodia must have wondered whether the effect of American aid would be similar in its own country. It also seems likely that the Government of Cambodia concluded that the effort against the Communist Vietcong guerrillas in South Vietnam was doomed to failure.

The attitude of Cambodia compounds the problem of Vietnam. It opens up the last remaining frontier of Vietnam to Communist infiltration. The New York Times of January 5 has reported that, in fact, much of the heavy equipment for the Communist guerrillas reaches Vietnam through Cambodia.

In these circumstances, what is the purpose of the conference to neutralize Cambodia? Is it to legitimize that country as a sanctuary for the war in Vietnam as was the case with Laos? What is the sense of sitting down with the countries which daily violate the neutrality of Laos to define the same status for Cambodia?

Of course, the ruler of Cambodia is free to conduct any policy he chooses, including neutrality. The problem for the United States is whether to participate in defining a special international status for Cambodia.

If Cambodia is neutralized on the model of Laos, the political and psychological pressures on Vietnam are bound to grow. It will then be argued that the solution to the problems of South Vietnam is "neutrality"—which under the "Geneva formula" would mean the takeover by communism in a measurable time. It is no accident that leaflets urging the neutralization of South Vietnam have begun to appear in that country in increasing numbers. It is high time that the United States clarified its policies on southeast Asia.

RESORTS FACED WITH DOUBLE-EDGED SWORD

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. CLEVELAND] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, the Federal Government wields a two-edged sword that cuts both ways when it deals with the hotel and motel industry. Uncle Sam is financing the construction of new and unneeded hotel space and at the same time stiffening regulations on existing and established hotels and motels. Imposition of minimum wage standards on this recreation-dependent industry could be a serious financial blow to areas like New Hampshire that depend upon tourists and their patronage.

Hotels and motels received a double-barreled attack from the Federal Government last year. They lost substantial revenue because of changes in Federal tax regulations regarding business expense deductions, and at the same time, the Federal Government through

ARA was financing competitive new motel and hotel operations in an industry that had an average occupancy rate of only 61 percent. ARA, for example, financed construction in 1963 of a $1,894,-525 motor hotel in Detroit although the hotel occupancy rate in Detroit during 1962 was only 54 percent.

While Federal policies are encouraging unemployment in the hotel business, proposals are now being made to extend Federal minimum wage standards to hotels and motels. General minimum wages could cripple the resort industry, where many employees are students receiving besides tips and wages, a free vacation, meals, and lodging. Certainly increased unemployment could be the result if resorts have to close because of the financial pressure put on them from the unwise establishment of minimum wages.

The following article from the February 1 issue of the Hotel and Restaurant News states that the hotel-motel industry suffered last year its "worst year since the depression":

A.H. & M.A. YEAREND REPORT LABELS 1963 "WORST SINCE DEPRESSION" FOR INDUSTRY: HOTEL-MOTEL SALES OFF $85 MILLION

NEW YORK, N.Y.—The hotel-motel industry in 1963 experienced its "worst year since the depression," according to the accounting firms which conduct independent financial surveys for the industry.

In its yearend report, the American Hotel & Motel Association announced that total sales for the Nation's 87,000 hotels and motels fell 3 percent from 1962, as gross income decreased by almost $85 million from the $2.8 billion total achieved last year.

Food and beverage sales, according to the report, dropped from 3 to 5 percent. Room occupancy, at 61 percent, slipped 1 percent from 1962, while room rates throughout the country remained unchanged.

Contributing to the generally unfavorable financial picture, according to A.H. & M.A. Executive Vice President Lawson A. Odde, were 1963 losses totaling $25 million in hotel-motel telephone operations, and "the continued refusal of the Nation's telephone companies to do anything about it."

Mr. Odde also scored "an increasing tendency on the part of the Federal Government to pass laws and regulations which jeopardize the already dangerously thin profits in the innkeeping field."

To reverse the downward trend, he declared, the A.H. & M.A. is "pulling out all the stops." He cited more research, more promotion, strengthening educational programs, working closely with the U.S. Travel Service to increase the flow of visitors from abroad, and a host of projects designed to increase profits, raise guest satisfaction, and lower costs, as areas of association concentration.

Also speaking out in the A.H. & M.A. annual yearend report were Arthur J. Packard, chairman of the group's governmental affairs committee; George D. Johnson, telephone committee chairman, and senior vice president, Sheraton Corp.; and A.H. & M.A. President Roy Watson, Jr., who is also president and general manager of the Kahler Corp., Rochester, Minn.

Mr. Packard hit the "confusing set of (travel and entertainment) tax regulations" which have turned away convention and business trade, and declared that passage of proposed minimum wage legislation would "trigger a quick rise in unemployment and force many hotels and motels to close their doors."

Mr. Johnson indicated the association is presently mapping plans for a nationwide campaign to attempt to stem telephone operating losses, while President Watson expressed the belief that the industry would recover from its present doldrums, because "we have adopted an optimistic and enthusiastic outlook, we are enlarging our effort better to merchandise better facilities, and we are emphasizing again the essence of innkeeping—good service to the guest."

TRIBUTE TO THE HONORABLE JAMES C. CLEVELAND OF NEW HAMPSHIRE

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Vermont [Mr. STAFFORD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STAFFORD. Mr. Speaker, it is with great pleasure that I call to the attention of the House, the recognition which my distinguished colleague and neighbor from the great State of New Hampshire, JAMES C. CLEVELAND, has received for his fine efforts to eliminate waste and discrimination in Government research activities. It is gratifying to place in the RECORD a resolution adopted on the part of the New Hampshire Optometric Association, in the course of its winter meeting, January 22, 1964:

Whereas Congressman JAMES C. CLEVELAND, of New Hampshire, has displayed a great capability as a member of the House Select Committee on Government Research; and

Whereas his concern for elimination of waste and discrimination in Government research activities will have inestimable value in future programs: Therefore be it

Resolved, That the New Hampshire Optometric Association at its winter meeting, January 22, 1964, unanimously expressed its commendation and thanks to Mr. CLEVELAND for his overall interest in providing research in general and his particular interest in improving the climate for providing the best vision care for the American public by all disciplines.

THE SO-CALLED TAX REDUCTION BILL

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. YOUNGER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. YOUNGER. Mr. Speaker, recently I received a letter from one of our constituents in regard to the so-called tax reduction bill which was passed by the House and I would like to quote two paragraphs from that letter:

Thanks so much for the copy of H.R. 8363 on the proposed tax cut. You have gone out of your way to help me and it is greatly appreciated indeed.

I have computed my own 1963 tax bill, as well as a number of other retired people's for the same year, and find that in every instance, H.R. 8363 raises the tax, not reduces it. This sampling is a fair one and I think would be fairly close for the majority of the retired over 65.

This seems to prove what I have contended all the time, that this so-called tax reduction bill is going to impose real hardship on all retired people and instead of giving any relief it will increase the tax take out of their meager income.

COMPENSATION FOR SENECA INDIANS

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentlewoman from Ohio [Mrs. FRANCES P. BOLTON] may extend her remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mrs. FRANCES P. BOLTON. Mr. Speaker, when the Congress of the United States voted to build the Kinzua Dam within the Allegany Indian Reservation in New York and Pennsylvania it tore into shreds the first treaty this country ever made. It was a treaty made between the Seneca Nation and the United States, signed on behalf of George Washington November 11, 1794. This action was reexamined by Thomas Jefferson March 17, 1802, when he stated that these lands shall remain the property of the Seneca and Onandago Nations forever unless they shall voluntarily relinquish or dispose of them. But the treaty was broken and some two-thirds or 20,000 acres of their best land taken to be flooded by this dam.

The least we can do now is to compensate as adequately as possible these people who built their homes, educated their children and owe no man a penny. I would like to compliment our colleague, the gentleman from Florida, Representative JAMES HALEY, and his Subcommittee on Indian Affairs for the great interest they have taken in this matter, also the House leadership for bringing up H.R. 1794 at this time. Incidentally, a very appropriate number was assigned this legislation for it was in 1794 that the treaty was signed with the Seneca Nation. It is my hope that the bill will be speedily enacted and that the Appropriations Committee will follow through with the necessary funds so these truly wonderful people will have new homes in adequate time.

CUBA

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Kansas [Mr. SHRIVER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SHRIVER. Mr. Speaker, the cutoff by the Castro government of fresh water into the U.S. naval base at Guantanamo Bay comes as no surprise. However, the action by the Communist dictator and the reaction by our Govern-

ment demonstrates once again the need for a clarification of U.S. policy in regard to Cuba.

Last summer I accepted an invitation from the Secretary of the Navy to join with other Members of the House in an inspection and briefing at our great naval base at Guantanamo Bay. My foremost impression at that time, and it is the same today, is that the United States must under no circumstances relinquish or leave or give up this excellent naval base. It is important to the security of this Nation as an ideal training station for our fleet. It is strategically located for protection of the Panama Canal; in fact, the sea routes to the Caribbean and Latin America. It is vital to the maintenance of American sea and air power.

While we are concerned about the cutoff of the water supply at the moment, the Castro government, assisted by Soviet military troops and technicians in Cuba, could aim a greater blow at that vital base.

On January 18, 1964, Radio Progreso broadcast from Havana a special message sent from Premier Khrushchev and Castro while the latter was in Moscow. The Soviet Premier was quoted as follows:

> We salute the peoples that fight for their liberation, those who are good fighters, and we wish them complete success in this fight * * * we salute the battle of the Cuban people for the liquidation of the Guantanamo military base * * * the soil of Guantanamo is Cuban soil and must be returned to Cuba.

Mr. Speaker, we can expect new incidents in the Caribbean. Castro, with Soviet backing, will continue to flex his muscles and intimidate the United States until the administration displays the firmness and determination which Communists understand best.

A CERTAIN RICH MAN

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Kentucky [Mr. SNYDER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SNYDER. Mr. Speaker, it is time that someone called President Johnson's attention to another approach to his "help poverty" program, where he has the opportunity to perform.

Two thousand years ago our Lord Jesus Christ applied such reasoning to another ruler, as described in the Gospel according to St. Luke, beginning with the 18th verse:

> And a certain ruler asked him, saying, Good Master, what shall I do to inherit eternal life?
>
> And Jesus said unto him, Why callest thou me good? none is good, save one, that is, God.
>
> Thou knowest the Commandments, Do not commit adultery, Do not kill, Do not steal, Do not bear false witness, Honor thy father and thy mother.
>
> And he said, All these have I kept from my youth up.
>
> Now when Jesus heard these things, he said unto him, Yet lacketh thou one thing: sell all that thou hast, and distribute unto the poor, and thou shalt have treasure in heaven: and come, follow me.
>
> And when he heard this, he was very sorrowful: for he was very rich.

If President Johnson should give away his millions to the poor it still wouldn't make much of a dent in poverty. But, if he did give away his considerable fortune to the poor, it would prove that he did sincerely mean his "help poverty" program: it would dispell the idea that he is currently delighted to help the poor by giving away other people's money.

"Charity begins at home" is a true proverb.

It is true for those who give as well as for those who get.

FEDERAL SUBSIDIES MAY EXCEED TOTAL COST OF FACILITIES PROVIDED BY DISTRICT OF COLUMBIA AS NONCASH GRANTS-IN-AID, GENERAL ACCOUNTING OFFICE FINDS

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. KYL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KYL. Mr. Speaker, I call attention to the bill, S. 628, which is now before the House Committee on the District of Columbia. The purpose of this bill, according to its proponents, is to permit urban renewal in downtown Washington, while the General Accounting Office and the American Law Division of the Library of Congress insist it would adversely affect every piece of residential, as well as nonresidential, property in the District of Columbia.

Now it is incongruous to even think about a $500 million nonresidential urban renewal program at a time when such a crying need for residential rehabilitation and improvement exists in the District of Columbia, and when archaic taxing philosophy promotes and perpetuates slums in our Nation's Capital.

Last June 27, 1963, I introduced a bill, H.R. 7319, to amend the District of Columbia Redevelopment Act of 1945 to insure that Federal subsidies may not exceed the total cost of facilities provided by the District of Columbia as noncash grants-in-aid. Under existing law the District of Columbia is permitted to receive Federal subsidies which exceed the total cost of facilities provided as noncash grants-in-aid to slum clearance and urban renewal projects. No other local community is in this same position. The Comptroller General of the United States in his audit of the District of Columbia Redevelopment Land Agency for the fiscal years 1957 and 1958 stated that:

> If the Congress desires that the credit received by the District of Columbia for noncash grants-in-aid be limited in the same manner as for other local communities, section 20(d) of the District of Columbia Redevelopment Act of 1945 will have to be amended.

My bill, H.R. 7319, carries out this eminently sensible suggestion by the Comptroller General of the United States.

The Comptroller General cited facts regarding the Southwest Expressway in the District of Columbia as proof of the special consideration given the District government and stated that:

> As a result of the URA grants and Bureau of Public Roads reimbursements, the District of Columbia will recover more than the total cost of the expressway. On the basis of cost estimates shown in loan and grant applications approved through September 1958, payments from these two sources will exceed the total cost by $3,664,391. On the basis of estimates shown in the amendatory loan and grant applications dated May 14, 1958, the excess amount recovered will be $5,766,567.

I include as part of my remarks the following excerpts from the "Audit of District of Columbia Redevelopment Land Agency, Fiscal Years 1957 and 1958, by the Comptroller General of the United States, May 1959."

FEDERAL SUBSIDIES MAY EXCEED TOTAL COST OF FACILITIES PROVIDED BY DISTRICT OF COLUMBIA AS NONCASH GRANTS-IN-AID

Under existing law the District of Columbia is permitted to receive Federal subsidies which exceed the total cost of facilities provided as noncash grants-in-aid to slum clearance and urban renewal projects. No other local community is in this same position.

Section 110(d) of the Housing Act of 1949 (63 Stat. 420) contained the following limitation with regard to the eligibility of facilities claimed as noncash grants-in-aid:

"No demolition or removal work, improvement, or facility for which a State, municipality, or other public body has received or has contracted to receive any grant or subsidy from the United States, or any agency or instrumentality thereof, for such work, or the construction of such improvement or facility, shall be eligible for inclusion as a local grant-in-aid and in connection with a project or projects assisted under this title."

Section 609 of the foregoing act also added a new section, 20(d), to the District of Columbia Redevelopment Act of 1945, which provided in part that:

"Notwithstanding the limitation contained in the last sentence of section 110(d) or in any other provision of title I of the Housing Act of 1949, the Administrator is authorized to allow and credit to the [District of Columbia Redevelopment Land] Agency such local grant-in-aid as are approvable pursuant to [said] section 110(d) with respect to any project or projects undertaken by the Agency under a contract or contracts entered into under this section and assisted under title I of the Housing Act of 1949."

The above language was developed by the Housing and Home Finance Agency (HHFA) in consultation with the Board of Commissioners of the District of Columbia, the Corporation Counsel for the District of Columbia, the RLA, the National Capital Housing Authority, and the National Capital Park and Planning Commission at the request of the chairman of the House Committee on Banking and Currency for language necessary or desirable to permit the District of Columbia to participate in the national programs of Federal aid for slum clearance and for low-rent public housing on the same basis as other communities throughout the country.

In replying to our letter requesting views as to the interpretation of section 20(d) of

the District of Columbia Redevelopment Act of 1945, as amended, the Administrator, HHFA, stated in a letter dated November 6, 1958:

"Further, it is axiomatic in statutory interpretation that in ascertaining legislative intent consideration can properly be given to those statutes which are in pari materia: We find such a case in section 304 of the Territorial Enabling Act of 1950 (Public Law 615, 81st Cong., approved July 18, 1950). In this section, there is a provision, the first portion of which is identical in substance with the first sentence of section 20(d) of the District of Columbia Act. Concerning this portion of the provision, there is the following statement in the House report (H. Rept. No. 2276, 81st Cong., 2d sess., June 19, 1950):

"EXPLANATORY NOTE.—In this connection, it should be noted that the Federal Government annually appropriates funds for expenses of the government of the Virgin Islands, including normal municipal expenditures, such funds being used to supplement local revenues. It is, therefore, necessary, if the Virgin Islands is to participate in the urban redevelopment program under title I of the Housing Act of 1949, for the Congress to grant an exception to the limitation in the last sentence of section 110(d) of that act which prevents counting as a local grant-in-aid facility of service financially assisted by the Federal Government under other programs. An exception substantially similar to the instant exception was granted to the District of Columbia by section 609(d) of the Housing Act of 1949 * * *."

Section 110(d) of the Housing Act of 1949, as amended by the Housing Act of 1954 (68 Stat. 628), now contains the following limitation with regard to the eligibility of facilities claimed as noncash grants-in-aid:

"With respect to any demolition or removal work, improvement or facility for which a State, municipality, or other public body has received or has contracted to receive any grant or subsidy from the United States, or any agency or instrumentality thereof, the portion of the cost thereof defrayed or estimated by the Administrator to be defrayed with such subsidy or grant shall not be eligible for inclusion as a local grant-in-aid."

When section 110(d) is read in light of the fact that the Congress annually provides grants to the general treasury of the District of Columbia and the Virgin Islands government to supplement the local revenues and that these grants are merged with the funds collected locally, the problem of identifying the source of funds for determination under section 110(d) can be readily perceived. With the addition of section 609, no attempt at tracing the commingled Federal supplements to local revenues would be necessary and all funds could be treated as derived from local revenues as far as the urban renewal projects were concerned.

The above treatment of the Federal supplements to local revenues would be compatible with the explanation of the then Administrator, HHFA, who in transmitting the requested language enclosed an explanatory statement which provided, in part, that:

"The proposed amendment would authorize the Administrator of the Housing and Home Finance Agency to allow credit for local grants-in-aid in connection with projects undertaken within the District of Columbia * * * to the same extent as local grants-in-aid are approvable for other cities and States."

We have observed, however, that the amendment actually enabled the District of Columbia to receive larger credits for noncash grants-in-aid than other communities are permitted to receive. To illustrate the effect of section 20(d), the following facts concerning the Southwest Expressway are presented.

1. URA tentatively allowed one-third of the estimated total cost of the expressway as a part of gross project cost and as a noncash grant-in-aid for project areas B and C. Loan and grant applications, as approved by URA through September 1958, show the estimated total cost of the expressway to be $29,963,200. Amendatory loan and grant applications dated May 14, 1958, show the estimated total cost to be $47,181,000 including $5,977,000 for project land to be purchased from the RLA. At the completion of our audit in October 1958, URA had approved the amendatory application for project area B. As previously indicated, the amounts allowed by URA as noncash grants-in-aid are included in project cost. Thus, the Federal capital grants to be paid in accordance with the provisions of the Housing Act of 1949, as amended, will include two-thirds of the amounts allowed as noncash grants-in-aid.

2. The District of Columbia has also entered into agreements with the Bureau of Public Roads of the Department of Commerce covering certain costs of the Southwest Expressway. The Bureau of Public Roads will reimburse the District of Columbia for 90 percent of these costs. Our review indicated also that the District of Columbia will enter into similar agreements covering all other costs of the expressway.

3. As a result of the URA grants and Bureau of Public Roads reimbursements, the District of Columbia will recover more than the total cost of the expressway. On the basis of cost estimates shown in loan and grant applications approved through September 1958, payments from these two sources will exceed the total cost by $3,664,391. On the basis of estimates shown in the amendatory loan and grant applications dated May 14, 1958, the excess amount recovered will be $5,766,567.

4. In a letter dated December 15, 1958, to the Board of Commissioners, District of Columbia, we concluded that the allowance of credit by URA for the full cost of the portion of the Southwest Expressway benefiting project areas B and C is authorized by section 20(d) of the District of Columbia Redevelopment Act of 1945.

If the Congress desires that the credit received by the District of Columbia for noncash grants-in-aid be limited in the same manner as for other local communities, section 20(d) of the District of Columbia Redevelopment Act of 1945 will have to be amended.

APPROVAL AS NONCASH GRANT-IN-AID OF FACILITY THAT WILL BENEFIT THE ENTIRE COMMUNITY

In entering into a loan and grant contract in April 1953 the URA tentatively allowed one-third of the estimated cost of the Southwest Expressway (see p. 23) as a part of the gross project cost and as a noncash grant-in-aid even though the expressway is of communitywide benefit.

The earliest policy statement relative to facilities of this nature is found in Policy Document No. 41, issued by the Director of the Division of Slum Clearance and Urban Renewal (now the Urban Renewal Administration) on October 24, 1950, provided as follows:

"Facility which does not benefit the project area any more, proportionately, than the rest of the city cannot qualify under the proviso in section 110(d)(3) as a grant-in-aid that is of direct and substantial benefit both to the project and to other areas."

This policy was restated in LPA letter No. 29, dated February 25, 1954, and finally incorporated as part 2, chapter 10, section 4, of the LPA manual dated October 18, 1955, which provides in part:

"(1) No part of the cost of a public facility is eligible [as a noncash grant-in-aid] if such a facility is not of direct and substantial benefit to the project. A facility is not considered to be of direct and substantial benefit to the project under the following circumstances:

* * * * * *

"(b) The facility is of a character which serves an entire community, or a substantial portion thereof, instead of being a neighborhood facility * * *."

The RLA files contain statements by the RLA and the Department of Highways, government of the District of Columbia, in justification of the Southwest Expressway as a noncash grant-in-aid. The RLA stated that "The single major improvement of communitywide and project benefit in the area is the Southwest Expressway." The Department of Highways stated that the expressway is part of "the 'inner belt' route, a high-volume, high-capacity highway surrounding the entire downtown business district and designed to divert approximately 25 percent of the total daily trips which presently pass through this critically congested area."

We believe that the statements of RLA and the Department of Highways indicate that the expressway will benefit the entire community. Accordingly, we do not believe that UHA should have allowed the cost of the expressway as a noncash grant-in-aid.

In a letter to us dated March 23, 1959, the Commissioner, URA, stated that he did not agree that the cost of the expressway should be disallowed as a noncash grant-in-aid because it is of countrywide benefit. He stated further that the tentative approval of a portion of the facility as a noncash grant-in-aid credit was based upon direct benefits to be derived by the projects from the facility. We agree that the projects will derive some benefits from the expressway, but we are still of the opinion that it is basically of communitywide benefit and, as such, should not have been allowed as a noncash grant-in-aid. We believe that our position is further supported by a current policy of URA set forth in LPA Letter No. 149, dated July 2, 1958, as follows:

"Where highways are considered to be of communitywide benefit, they will not ordinarily qualify as noncash local grants-in-aid to an urban renewal project. Obviously the interstate highways financed on a 90-percent Federal 10-percent local basis are of general benefit and would be ineligible as noncash local grants-in-aid to an urban renewal project. Where Federal highway financing is on other than the 90–10 basis, the non-Federal share may be in part creditable as grants-in-aid to a title I project under certain circumstances."

RECOMMENDATION TO THE COMMISSIONER, URA

We recommend that URA adhere to the policy set forth in part 2, chapter 10, section 4, of the LPA Manual and not allow the cost of facilities of communitywide benefit as noncash grants-in-aid.

RESIDUAL OIL QUOTAS INCREASES CONCERN FROM MEMBERS OF CONGRESS

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. CLEVELAND] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, New England badly needs relief from residual

oil import restrictions, which are costing fuel-starved New England over $30 million a year. Secretary of the Interior Stewart Udall refuses to recommend removal of these restrictions which could be accomplished by a stroke of the President's pen. Earlier this year I submitted for the RECORD correspondence I have had with Mr. Udall urgently requesting the dropping of the quotas (January 27, pages 1165–1166). Mr. Udall admits that the residual oil quotas impose "moderate" additional costs to the U.S. economy.

We on the east coast—from New England to Florida—do not share Secretary Udall's attitude of academic complacency that his restrictions on our much-needed fuel supply is merely a "moderate" additional cost. It may be "moderate" to Mr. Udall, but it isn't moderate to the millions on millions of our people who every day have to pay higher costs for everything from electric lights to school taxes and hospital bills.

Following on my continued efforts to get the President to abolish residual oil import restrictions, I met last week with J. Cordell Moore, Administrator of the Interior Department Oil Import Administration. Attending the meeting were New England Fuel Committee members and New England Congressmen.

MINDS ARE MADE UP

Our hopes that New England would be given real relief from residual oil import quotas costing New England $30 million were dashed. I came away with an impression that a decision had been made not to remove the quotas and that the presentation of facts to Mr. Moore was a completely useless exercise due to the fact that he had already made up his mind. In typical bureaucratic fashion, he made a few vague promises about relaxing the quotas. As far as I am concerned that is election year talk from people who are trying to make voters happy but have not got enough guts to do what should be done—namely, abolish the quotas that are costing New England $30 million a year by increasing costs to hospitals, schools, industry, and apartment dwellings.

I am pleased to see that Secretary Udall's inaction and faint apologies are coming to the attention of other Members of Congress. Mr. Udall sent a reply to Senator JAVITS, of New York, that was almost a word-for-word duplicate of the one I received. Senator JAVITS scored Mr. Udall for using the residual oil quotas as a price-fixing tool, a far cry from the needs of national security—the flimsy base on which these inexcusable shackles are based. I commend to my colleagues the remarks of New York's distinguished Senator which appeared in the CONGRESSIONAL RECORD, January 30, 1964, on page 1427:

PROPOSED DISMANTLING OF THE PRESENT SYSTEM OF UNNECESSARY CONTROL ON RESIDUAL FUEL OIL

Mr. JAVITS. Mr. President, on December 17, 1963, in a joint letter to Secretary of the Interior Udall, the Senator from New York [Mr. KEATING] and I urged him to dismantle the present system of unnecessary controls on residual fuel oil prior to the start of the new quota year on April 1, 1964, to permit normal competitive forces of the marketplace to prevail.

Secretary Udall's reply of January 20 is surprising and evasive, and once again fails to give any rational justification for the continuation of this administration's program of residual fuel oil import controls.

The maintenance of these controls cannot be justified in terms of our national security. This issue has clearly been disposed of on February 13, 1963, when the report of the Office of Emergency Planning to the President declared that "a careful and meaningful relaxation of controls on imports of residual fuel oil consistent with the national security and the attainment of Western hemispheric objectives which contribute to the national security."

The present basis for allocating quotas has also resulted in anticompetitive conditions in this industry and higher prices for the consumer.

The Secretary's reply openly admits that "it is most difficult to maintain effective controls of imports of residual fuel oil and at the same time engender within the industry the degree of competition which would exist in the absence of such controls."

He also concedes that control of oil imports entails "moderate" additional costs to the U.S. economy.

It looks as if Secretary Udall is justifying import restrictions of residual fuel oil on the basis of price considerations. This is in direct contradiction to his contention that these controls are needed for reasons of national security.

The Secretary also claims that the program was liberalized in the past 3 years. While in some respects this statement is true, it fails to point out that under the existing regulations the consumer is still tied to one supplier.

This is a deplorable situation, yet thus far an insoluble one. I would hope, therefore, that my colleagues from New England, the Middle Atlantic States, as well as Florida, would join us soon in a concerted effort toward rectifying this situation. Only in this way can we hope for effective and quick results.

In this regard, the Legislature of the State of Maine is to be commended for its courage in unanimously passing, at a special session of the legislature on January 16, 1964, a joint resolution calling for the removal or liberalization of import controls on residual fuel oil in the best interests of the consumer and the Nation.

I also point out that one of the things which is hurting Latin America almost irretrievably, and which is bedeviling the Alliance for Progress, is the fact that the terms of trade are turning against rather than in favor of Latin America. Latin American exporters are constantly buying less U.S. goods instead of more. One of the great difficulties is the arbitrary restrictions placed on Latin American exports, such as residual fuel oil, zinc, lead, and other commodities.

For all these reasons, I renew my plea that the residual fuel oil quotas be withdrawn and that the plan be canceled.

MORE DEFENSE FUNDS LIKELY FOR CANADA

Mr. THOMSON of Wisconsin. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. ROUDEBUSH] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROUDEBUSH. Mr. Speaker, I would like call the attention of the Members of the House to an article that was written by Allen M. Smythe, which appeared in the February 7 issue of the Washington Evening Star. I think this is an excellent article concerning purchases made by our Government from Canada, and certainly shows the seriousness of the situation. I imagine that several of you, just I have, have received letters from manufacturers in your districts. I find this article thought provoking and I commend it to your attention. With consent of the House, I wish to ask that the article be reproduced in its entirety in the RECORD.

MORE DEFENSE FUNDS LIKELY FOR CANADA

(By Allen M. Smythe)

An uneasy Pentagon is awaiting a White House memorandum that would require more defense funds be spent in Canada. The State Department is reported drafting policies that would not only give our northern neighbor more defense subcontracts, but approve her recent efforts by tariff changes, rebates, and tax exemptions, to entice U.S. automotive parts and component factories to move to Canada.

Rumors to this effect have been circulating in Washington since Prime Minister Pearson's recent "social" visit to President Johnson's Texas ranch. Defense officials vividly recall 5 years ago when former Premier Diefenbaker charged into the White House and with "an 18th century gusto" convinced President Eisenhower that Canada should have 10 percent of the U.S. military contracts.

The urgent White House order that followed resulted in the forming of the procurement sharing program which in turn forced American defense contractors to give Canada "a fair share" of their subcontracts. At the same time an Executive order waived for Canada the differentials in the Buy-American Act.

Military contractors say Canadian firms often do not have the equipment and technical know-how to produce components for the complex weapons of today. The Pentagon is not allowed to inspect or rate the Canadian factories. Many Canadian defense subcontracts have been far from satisfactory.

The recent transfer of Studebaker manufacturing to Canada has aroused other automotive industries and their unions. While State Department negotiations with Canada have been discreet and formal, local units of the United Auto Workers have been loud in their complaints to Congress, the White House and Pentagon.

Labor leaders would like to have the 6 and 12 percent differentials of the Buy-American Act restored to Canadian purchases.

Industry spokesmen say the $555 million balance of trade against Canada is decreasing rapidly and is more than offset by capital investments and other U.S. spending. This makes the gold balance in their favor.

Defense officials state that the Pentagon has spent more than $30 billion on the early warning lines installed in Canada. With a diminished Soviet bomber threat, the operating and maintenance costs of these lines are now sharply reduced.

Other Pentagon officials point out Canada's lack of cooperation in the Cuban crisis and her lucrative trade with Cuba in spite of the embargo. This tripled trade, largely in repair parts, has kept Cuba's refineries, sugar mills, and power stations operating. Payments were made in dollars through the eight branches of the Royal Bank of Canada—the only private banks not seized by Castro.

RESOLUTION OF THE NEW YORK STATE ASSEMBLY URGING ENACTMENT OF THE CIVIL RIGHTS BILL

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MULTER. Mr. Speaker, I commend to the attention of our colleagues the following resolution of the New York State Assembly memorializing Congress to enact H.R. 7152.

I believe that this resolution amply demonstrates the view of the overwhelming majority of the people of my State toward this bill.

The resolution follows:

RESOLUTION 58

Concurrent resolution of the senate and assembly memorializing Congress to enact civil rights legislation

Whereas the guarantees of civil rights and human dignity pledged in the Declaration of Independence and Constitution of the United States have been violated and subverted by practices of racial discrimination and segregation which now exist in many areas of this Nation; and

Whereas the continuation of such discrimination and segregation violates the citizen rights of individual Americans, threatens our domestic tranquillity, impairs our Nation's economic growth, damages the foreign policies of the United States and, if not eliminated, will weaken this country as a leader of the free world; and

Whereas the laws of the State of New York, have broken ground in the civil rights field, demonstrating to the States and Federal Government, the beneficent social and economic consequences of implementing the moral commitments made in the Declaration of Independence and Constitution; and

Whereas there is now pending in the Congress legislation which will provide the Federal Government with needed legal instruments for pursuing its declared national goal of eliminating racial discrimination and segregation: Therefore, be it

Resolved (if the senate concur), That the Congress of the United States be, and hereby is, memorialized to enact forthwith the civil rights and antidiscrimination legislation now pending before it; and be it further

Resolved (if the senate concur), That each Member of the Congress from the State of New York be urged to support and vote for the civil rights legislation, including provisions guaranteeing an end to discrimination in the use of public accommodations and in the exercise of voting rights; and be it further

Resolved (if the senate concur), That the New York delegation to the Congress commit its support to accelerating the movement of this legislation from committee to the floor for immediate action; and be it further

Resolved (if the senate concur), That copies of this resolution be transmitted to the Congress of the United States by forwarding one copy to the clerk of the Senate, one copy to the Clerk of the House of Representatives, and one copy to each Member of Congress from the State of New York.

VOLUNTARY CERTIFICATE WHEAT PLAN

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Oregon [Mr. ULLMAN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ULLMAN. Mr. Speaker, the Oregon Wheat League, which was founded over 37 years ago, has gained an enviable reputation throughout American agriculture as a leader in the development and adoption of better farming, marketing methods, and programs.

The Oregon Wheat League has come out strongly in favor of a voluntary certificate wheat plan, similar to those recommended by several Members of Congress from farm areas. I wish to insert a letter expressing the position of the league, which is signed by Mr. John Welbes, executive vice president, at this point:

OREGON WHEAT GROWERS LEAGUE,
February 4, 1964.

Representative AL ULLMAN,
House of Representatives,
Washington, D.C.

DEAR MR. ULLMAN: The Oregon Wheat Growers League, since its origin in 1926, has been a leader in developing sound wheat legislation. Many other wheat producing States have looked to the Oregon Wheat Growers League for guidance. Our officers have just returned from Washington, D.C., where they talked to several Senators and Representatives on pending wheat legislation, especially H.R. 9780, which had just been reported out of the Subcommittee on Wheat.

The Oregon Wheat Growers League would like for you to consider the following statement when considering new wheat legislation:

"The Oregon Wheat Growers League fully endorses a voluntary certificate program for wheat encompassing the principles of the certificate plan. Congress should carefully consider the following points in a voluntary program if it is to be successful:

"1. A voluntary program that does not have enough incentive for grower participation signup will have a low percent of compliers. This would result in the noncompliers furnishing the cash market. The complier's wheat would end up as CCC stocks, which would mean higher storage costs, and not improve farm income.

"2. Any new program which would not maintain the 1962 income of wheat producers would result in a smaller percent of compliers.

"3. With export certificates valued at a low figure, the percent of compliance will definitely be down.

"4. The substitution clause should be in any new wheat legislation."

In reviewing President Johnson's agriculture message to Congress, he mentions, in the second paragraph, that the administration's policy is for higher farm income, reduced farm surpluses, and lower Government costs. As mentioned above, if a voluntary program is enacted, it must have participation to be effective. Less participation would result in fence-to-fence planting. This then would increase surpluses, increase Government costs due to CCC storage, and would not improve the farm income. President Johnson also mentions that the income of the average farm family is still only 55 percent of that received by the average nonfarm family.

The Oregon Wheat Growers League urges you to consider our statement in considering any wheat legislation.

Sincerely yours,

JOHN H. WELBES,
Executive Vice President.

PANAMA CANAL—EMPLOYMENT OF ALIENS FOR CANAL ZONE POLICE TANTAMOUNT TO TREASON

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FLOOD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. FLOOD. Mr. Speaker, the Washington Post of February 7, 1964, contains two news stories about the fires now burning in the Caribbean, one about Cuba stopping the Guantanamo water supply; and the other, an announcement by Gov. Robert J. Fleming of the Canal Zone that Panamanian nationals will soon be placed on the zone police force. The water story, though important, is not crucial, because our Navy long ago took effective precautionary measures. Nevertheless, it was featured in a banner headline "Cuba Stops Guantanamo Water," in a major news story. The Governor's announcement about hiring Panamanian nationals for police duty, though of transcendent significance, is buried on page A12, column 6, in eight short paragraphs of the Washington Post.

In view of the January 9, 1964, attempted Red-led and directed mob attacks on the Canal Zone and other events over a period of years, the Governor's announcement, though truly shocking, is not surprising, in view of his anti-American stands regarding the sovereignty of the United States over the Canal Zone and Panama Canal.

Mr. Speaker, I would emphasize that this Governor's proposed action is not a mere routine matter but an intended body blow against the legitimate vital interests of the United States at the key spot of the Americas. It conforms to Communist strategy and tactics of infiltrating police forces preliminary to Red takeovers. Its consummation would be a serious breach in the Canal Zone security system that must not be tolerated under any circumstances, for its aids and abets the Red revolutionary program for conquest of the Caribbean and Latin America, including the Panama Canal.

Certainly when our houses in the Caribbean, lighted by bloody communism, are on fire and the free world everywhere is reeling from blows of revolutionary attacks, this is no time for surrender on our part of the Panama Canal and the agencies for its protection to those who, in the very nature of the

case, will have in their ranks trained revolutionaries and saboteurs dedicated to the Red policy of liquidating, by any means whatsoever, all U.S. sovereignty and jurisdiction over the Panama Canal.

Today, wherever our forces are deployed beyond the seas or in foreign lands, Communist vultures are roosting on our guns.

In view of these and many other facts, the Governor's announced intention should be denounced throughout the Nation, with demands, in the interest of our national security, for the immediate dismissal of him and all others responsible for the proposed betrayal, a full and complete investigation by the Congress, and such other actions as the facts may warrant.

In this connection, Mr. Speaker, I would emphasize that, with Red influence reaching into the highest levels of the Panamanian Government, including the Cabinet of President Chiari and the National Assembly, it will be impossible to avoid Red infiltration of the Canal Zone police force, which would include some who were trained in Cuba for the revolution and sabotage and actually led the January attacks on the Canal Zone. Moreover, the misguided strategists now endeavoring to hire Panamanian nationalists to police American citizens and American territory in the Canal Zone know precisely what they intend to do. Instead of our Government employing aliens to defend the Canal Zone and our citizens there, I would urge, in line with the view of George Washington at another crucial time in our history: "Put none but Americans on guard."

In order that the Nation at large, the Congress, and the loyal elements in our Government and in mass news media may be informed as to this sinister scheme for Red infiltration of the Canal Zone Government, I insert the indicated news story at this point:

ZONE TO HIRE NATIONALISTS AS POLICEMEN

BALBOA, C.Z., February 6.—Gov. Robert J. Fleming, of the Canal Zone, said today that about 50 Panamanians will be hired soon for the Canal Zone police force.

The announcement brought immediate protests from the 250-man police unit, now composed entirely of Americans, and from the men who pilot ships through the U.S.-controlled canal.

The Governor said about 20 Panamanians will be integrated into the force first, probably next week, with 30 more added later as part of a plan to expand the force to 350 men. He said the nationals would be used in the zone sections where Panamanians working on the canal live.

Richard Meehan, 30, president of Canal Zone Police Lodge 1798 (AFL–CIO), said bringing Panamanians into the force would be "a dramatic inroad and a breach in the Canal Zone security system."

Meehan said the police force is a highly trained organization entrusted with such functions as harbor and border patrol, criminal investigation and operation of the penal system.

"Panamanians' loyalty in carrying out these functions can be questioned," he charged.

He said the plan will cause "a large number of skilled American help to quit and go home." The Canal Pilots Association sent a protest to Army Secretary Cyrus Vance in Washington, he said.

Fleming said the plan to hire Panamanian policemen "won't have the slightest effect on security in the Canal Zone." He cited the work of the all-Panamanian fire department as an example of loyalty.

CIVIL RIGHTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. BOLAND] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. BOLAND. Mr. Speaker, at such a time in the world's history it is opportune that America should be granted the occasion both to rediscover its own soul and to focus the eyes of the world on the essential principles for which we stand.

Such an occasion is the present effort to provide further statutory protection for civil rights. Conscience itself summons us to fulfill our highest obligation, to realize in a more perfect way the very reason for the being of the United States:

That to secure these rights, governments are instituted among men.

In spelling out and making explicit the human rights of American citizens in order to provide for these rights more secure juridical protection, we are simply returning to the Declaration of Independence to embrace once more the moral purpose for the sake of which the signers pledged to each other their "lives," their "fortunes," and their "sacred honor."

The rights which we are presently concerned to protect, are most certainly implicit in the essential, natural or human rights enunciated in the Declaration:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by the Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

Mr. Speaker, the Constitution translates into civil rights the inalienable rights of the Declaration. Our Constitution is meant to provide legal protection to the human rights which belong to every man because he is a man.

Nothing, surely, could remove us from fidelity to the Constitution more than discrimination between man and man with respect to rights. Nothing could have a more corrupting effect than to grant or refuse recognition and protection of rights on the basis of a man's race or color.

Is the United States or any State to countenance inequality of rights? Inequality of rights means inequality of liberties and opportunities which are essential conditions for pursuit of the rights enunciated in the Declaration of Independence. Inequality of such liberties and opportunities contradicts the very idea of the rights of man which inspired the Founding Fathers. If men are granted unequal rights, then something else than the inalienable personality of man must be assumed to be the basis of rights. But was it not in part to escape the injustices of privilege and power based on hierarchical class structure that men came to America from the Old World? Did the framers of the Constitution have any more essential aim in view than to provide a legal guarantee of the equal rights of every American citizen?

Our present duty is nothing less than to vindicate the Constitution. For the rights which we are discussing are not, in reality, rights which we are about to create, as if they did not already exist and as if they did not already bind us in conscience. The Constitution is our basic guarantor of equal rights. We are now confronting the fact of manifold denial of equal liberties and opportunities to American citizens. Are we not acting now simply to make effective in the mind and heart of every American the constitutional obligation to recognize the essential rights of every other person?

Mr. Speaker, I should like to say that the discussion and debate regarding civil rights on the floor of the House carried the subject to a high level of intelligibility. Civil rights debate this week has exemplified the most precious advantage of representative democracy, which is to clarify issues and bring about agreement and consent through rational persuasion.

Let me conclude by saying that this is one of those moments in our national history when wholehearted recourse to the Constitution itself will alone suffice to resolve an issue of critical proportions. And in having direct recourse to the Constitution, every partisan transcends party and becomes a statesman.

THE CIVIL RIGHTS BILL

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. LESINSKI] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. LESINSKI. Mr. Speaker, to make certain the record is clear, I should like to point out that in previous Congresses, I have voted for civil rights measures—the Civil Rights Act of 1957 and the Civil Rights Act of 1960. In 1960 I signed the discharge petition which was presented to bring the latter act before the House for a vote.

I am in full accord with the stated intent of the bill now under consideration, for I believe that every one of our qualified citizens should be allowed to vote as provided for in the Constitution; everyone should be able to travel freely about this country, eating and sleeping in places open to the public. Their children should have equality in educational facilities. Everyone should be able to compete for jobs on the basis of his qualifications and ability without regard to race, creed, or color.

However, after giving long and careful thought to the measure before us, I am gravely concerned that in the anxiety to do something about the rights of those of our citizens who are now the subjects of discrimination, the path is being laid which will lead to the destruction of the rights and liberty of every one of our citizens. This measure places in the hands of the Federal Government, and in particular one official of the Federal Government, the Attorney General, a tremendous amount of power. The current incumbent, Mr. Kennedy, I believe, displayed a great deal of wisdom, which we should note carefully, when in his testimony before the committee, he cautioned against giving too much power to the office he holds and warned that to do so could ultimately lead to a national police force. Of course, I am aware that there are some in the civil rights movements who advocate the creation of a national police force, but I believe the majority of our citizens would be strongly opposed to it. Although the bill has been modified to an extent, the seeds of power are still there, scattered throughout the various sections.

I am especially concerned about the fact that the bill applies to State and local, as well as Federal elections, for Federal interference in local elections could gradually destroy the people's right to vote and could put an end to our representative form of government. The end result could too easily be the opposite of what is intended to be done here today in guaranteeing the right to vote.

Our country was founded by people who were seeking individual freedom and liberty. They came to this land to escape the rule of a strong Central Government. Our country grew and prospered through the work and contributions of immigrants from other nations where a centralized rule existed. Even today, in East Berlin and other Iron Curtain countries, people risk their lives to escape centralized government.

None of us want to live under a dictatorship, whether it be a dictatorship by one man or by a small group at the head of the government, and I am fearful that this measure could lead to such conditions. It cannot happen here, some will say. Some said the same thing in Czechoslovakia, at one time considered a showcase of democracy; some said it in Hungary, in Poland, and in the other Eastern European countries now dominated by a small group of dictators at the head of a centralized government, where people who once had, no longer have, a voice in their government.

There are a great many people who in the past have criticized big government and government interference in private affairs who do not realize the far-reaching implications of this measure. I urge them to take a careful look at the proposal.

I urge the workingman to take a careful look at it because it could affect existing seniority rights.

I urge the veterans to consider the bill carefully, for it could affect their veterans' preference rights.

I urge all citizens of America to set aside their emotions for a minute and take a look into the future for their own good.

Jobs, education, training to improve the economic conditions of the minority are needed. We have made efforts in that direction through enactment of the Manpower Development and Retraining Program; through the improvements in the Vocational Rehabilitation Act; through assistance to colleges and universities. We need more efforts on an individual level such as that being done in Detroit where a drive has been organized to raise money for Wilberforce University, the oldest Negro school of higher learning in the United States, as described in the following article from a Detroit Newspaper:

SIX MILLION DOLLARS IS GOAL FOR SCHOOL

A $6 million national fundraising drive, which will cover a 10-year period, is being mapped for Wilberforce University, the oldest Negro school of higher learning in the United States.

Preliminary plans for the drive were revealed last week at a press conference at the Sheraton-Cadillac Hotel by Dr. Rembert E. Stokes, Wilberforce president, and Detroit Attorney Andrew W. Perdue, local alumni president.

The announcement followed a final planning conference between Dr. Stokes, Perdue and Hondon B. (Bud) Hargrove, vice president of the local alumni.

Perdue and Hargrove said the local alumni drive this year will have a goal of $20,000 for scholarships. It will culminate at a founder's day banquet in May. Hargrove is also general chairman of the banquet committee.

Also attending the conference was Walter Quetsch, Wilberforce's director of developments. Representatives of the local press and Newsweek magazine were on hand for the conference.

Dr. Stokes pointed out the moneys will be earmarked for scholarships, plant expansion, and general endownment.

He told the press that the drive will be kicked off here February 1, with Benjamin Levinson acting as financial adviser for this campaign. Levinson is president of the Franklin Mortgage Corp.

Dr Stokes said he felt that Wilberforce University is most fortunate to have the good counsel of Ben Levinson.

"Certainly, we are fortunate to have the guidance and leadership of an individual (Levinson) who has contributed so much to higher education in this country," Dr. Stokes said.

Levinson has distinguished himself in his association with universities for the past 20 years. Ten years ago, he was instrumental in raising $5 million to build the medical science building for Wayne State University, and received the first Distinguished Service Award from Wayne University, and a Gold Medal for his endeavors.

Levinson was honored by the University of Detroit, and received the Alpha Kappa Psi Service Award, for outstanding service to the U–D. He was made an honorary alumnus of the U–D Dental School for creating scholarship funds.

He is a founder and trustee of Maryglade College, a seminary which is located at Memphis, Mich. Levinson has represented Villanova University, his own college, for many years. He was an original member of the Michigan Legislative Study Committee on Higher Education.

Levinson has represented universities, both local and out of State. He is an ambassador of Yeshiva University, which is the oldest Jewish University in America; a national patron of the Jewish Theological Seminary in America and an associate of Brandeis University.

Sketching the background of Wilberforce, Dr. Stokes told the press conference how the school got its start in 1856 when a group of Methodist ministers founded the institution in southern Ohio to educate the "mulatto offspring" of slaveholders and their slaves.

The school was taken over by the African Methodist Episcopal Church during the Civil War when the slaveholders withdrew support. The night Lincoln was assassinated in 1865, a southern sympathizer burned down the school.

He said the tuition of $400 a year for the school "is the lowest of any accredited private college in Ohio, and only 55 percent of the national average of $740." He said such low tuitions are necessary when "you consider that the average Negro family annual income is about $3,233."

Dr. Stokes said in addition the school is presently appealing for $100,000 for next year, to strengthen such student self-help programs as work-aid, scholarships and student loans.

Unless such colleges as Wilberforce are kept alive, he emphasized, the average Negro from many culturally deprived areas in the South will not have the opportunity to acquire higher learning.

Dr. Stokes, 46, has been president of the university since 1956. He was dean of its well-known Payne Theological Seminary for 5 years before that.

These are steps to be taken to help the minority help themselves which is basically what any self-respecting individual wants.

Some of our citizens have grievances and they are impatient. Their demand is that something be done now. I would remind them that quick, seemingly sure remedies often backfire resulting in an illness that may be worse than the original one.

Once again, I wish to state that I am in full accord with the basic intent of the measure to guarantee the civil rights of all our citizens, but I believe that in the long run the methods in this bill by which that intent is to be carried out will be detrimental to everyone's freedoms.

As President Truman has said, there are already on the books sufficient laws to correct conditions. Let those laws be enforced. Let us not today enact more laws which could endanger the future of our country.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. LIPSCOMB (at the request of Mr. THOMSON of Wisconsin), for 30 minutes, on Monday, February 10, and to revise and extend his remarks and include extraneous matter.

Mrs. SULLIVAN (at the request of Mr. MATSUNAGA), for 30 minutes, on Saturday, February 8, and to revise and extend her remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL

RECORD, or to revise and extend remarks, was granted to:

Mr. MEADER to revise and extend his remarks made in Committee of the Whole and include extraneous matter.

Mr. HORTON and to include extraneous matter.

Mr. ROBERTS of Alabama (at the request of Mr. MATSUNAGA), to revise and extend his remarks during consideration of his amendment to title VI of H.R. 7152 and to include an explanation.

(The following Members (at the request of Mr. THOMSON of Wisconsin) and to include extraneous matter:)

Mr. PELLY.

Mr. FOREMAN.

Mr. PIRNIE.

Mrs. ST. GEORGE.

Mr. MORSE.

Mr. HARVEY of Michigan.

Mr. MACGREGOR.

(The following Member (at the request of Mr. MATSUNAGA) and to include extraneous matter:)

Mr. KING of California.

ADJOURNMENT

Mr. MATSUNAGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until tomorrow, Saturday, February 8, 1964, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1666. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Deposit Insurance Corporation for the year ended June 30, 1963, pursuant to section 17(b) of the Federal Deposit Insurance Act (12 U.S.C. 1827) (H. Doc. No. 221); to the Committee on Government Operations and ordered to be printed.

1667. A letter from the Comptroller General of the United States, transmitting a report on the overpricing of B–58 aircraft bomber recording systems by Melpar, Inc., Falls Church, Va., on fixed-price purchase order 509 with General Dynamics Corp., Fort Worth, Tex., under Department of the Air Force prime contract AF 33(600)–41891; to the Committee on Government Operations.

1668. A letter from the Comptroller General of the United States, transmitting a report on unnecessary costs resulting from Government production of M–14 rifle repair parts rather than procurement from commercial sources; to the Committee on Government Operations.

1669. A letter from the Assistant Director, Procurement Division, Office of Naval Material, Department of the Navy, transmitting the Department of the Navy's semiannual report of research and development procurement actions of $50,000 and over for the period July 1, through December 31, 1963, pursuant to title 10 U.S.C. 2357; to the Committee on Armed Services.

1670. A letter from the Secretary of the Army, transmitting a draft of a proposed bill entitled "A bill to amend title 10, United States Code, to authorize the payment of certain travel and transportation expenses to temporary civilian professors at Joint Military Colleges of the Department of Defense, and for other purposes"; to the Committee on Armed Services.

1671. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in cases in which the authority was exercised in behalf of such aliens, pursuant to the Immigration and Nationality Act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 621. Resolution for consideration of H.R. 9609, a bill to broaden the investment powers of Federal savings and loan associations, and for other purposes; without amendment (Rept. No. 1131). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 622. Resolution for consideration of H.R. 8316, a bill to amend the Communications Act of 1934 to prohibit the Federal Communications Commission from making certain rules relating to the length or frequency of broadcast advertisements; without amendment (Rept. No. 1132). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 623. Resolution for consideration of H.R. 9640, a bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard; without amendment (Rept. No. 1133). Referred to the House Calendar.

Mr. YOUNG: Committee on Rules. House Resolution 624. Resolution for consideration of H.R. 7381, a bill to simplify, modernize, and consolidate the laws relating to the employment of civilians in more than one position and the laws concerning the civilian employment of retired members of the uniformed services, and for other purposes; without amendment (Rept. No. 1134). Referred to the House Calendar.

Mr. COOLEY: Committee on Agriculture. House Joint Resolution 915. Joint Resolution to authorize and direct the Secretary of Agriculture to conduct research into the quality and health factors of tobacco and other ingredients and materials used in the manufacture of cigarettes; with amendment (Rept. No. 1135). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COOLEY:

H.R. 9938. A bill to amend the Watershed Protection and Flood Prevention Act, as amended; to the Committee on Agriculture.

By Mr. RIVERS of South Carolina:

H.R. 9939. A bill to establish uniform standards of admission to the U.S. Military, Naval, and Air Force Academies; to the Committee on Armed Services.

By Mr. ROOSEVELT:

H.R. 9940. A bill to amend the Clayton Act to prohibit restraints of trade carried into effect through the use of unfair and deceptive methods of packaging or labeling certain consumer commodities distributed in commerce, and for other purposes; to the Committee on the Judiciary.

H.R. 9941. A bill to amend the Federal Trade Commission Act to provide for the issuance of temporary cease and desist orders to prevent certain acts and practices pending completion of Federal Trade Commission proceedings; to the Committee on Interstate and Foreign Commerce.

By Mr. SIKES:

H.R. 9942. A bill to provide for the suspension of U.S. foreign aid to any country with respect to which diplomatic relations with the United States have been terminated or suspended; to the Committee on Foreign Affairs.

By Mr. BATTIN:

H.R. 9943. A bill to protect the domestic economy, to promote the general welfare, and to assist in the national defense by providing for an adequate supply of lead and zinc for consumption in the United States from domestic and foreign sources, and for other purposes; to the Committee on Ways and Means.

By Mr. BENNETT of Michigan:

H.R. 9944. A bill to amend the Public Works Acceleration Act to increase the authorization for appropriations under the act, and for other purposes; to the Committee on Public Works.

By Mr. DULSKI:

H.R. 9945. A bill to provide for the suspension of U.S. foreign aid to any country with respect to which diplomatic relations with the United States have been terminated or suspended; to the Committee on Foreign Affairs.

By Mr. PILLION:

H.R. 9946: A bill to provide that the attack aircraft carrier authorized for fiscal year 1963 shall be nuclear powered; to the Committee on Armed Services.

By Mr. TAYLOR:

H.R. 9947. A bill establishing certain qualifications for persons appointed to the Supreme Court; to the Committee on the Judiciary.

By Mr. SIBAL:

H.J. Res. 919. Joint resolution to establish a Joint Committee on Foreign Information and Intelligence; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 9948. A bill for the relief of Roy Bob Brown; to the Committee on the Judiciary.

By Mr. ASHMORE:

H.R. 9949. A bill for the relief of McKoy-Helgerson Co.; to the Committee on the Judiciary.

By Mr. DELANEY:

H.R. 9950. A bill for the relief of Emilie Antoine Stergiou; to the Committee on the Judiciary.

By Mr. PUCINSKI:

H.R. 9951. A bill for the relief of Christos Panayotopoulos; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 9952. A bill for the relief of Wladyslaw Borysoglebski; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia:

H.R. 9953. A bill for the relief of Thomas H. Hughes, Jr.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

685. The Speaker presented a petition of Bea Miller, Young Men and Women's Hebrew Association and Irene Kaufmann Centers, Pittsburgh, Pa., petitioning consideration of their resolution with reference to pledging their efforts toward the realization of the goals of John Fitzgerald Kennedy, which was referred to the Committeee on House Administration.